

NON-RETAIL LICENSING

I. GENERAL INFORMATION

Applications for non-retail licenses are in most respects processed similarly to those for retail licenses. All non-retail licenses are issued on a fiscal year basis. In addition to original and annual fees, business practices fees are charged for many types of these licenses. (Section 23053.5)

Non-retail licenses may not be issued under the provisions of Section 24044. (That section and Rule 64 pertain only to retail licenses.) Applications may be taken for premises under construction, however. After an ABC-220 has been received in Headquarters and the license is ready to issue in all respects except for completion of the premises, the Department will send the applicant a letter informing him/her that the license will issue after a final inspection of the building.

We will not "issue and hold" a non-retail license. After a license has issued, the applicant must put it into use within 30 days as is the case with retail licenses (Section 24040). This does not necessarily mean that sales must be made within 30 days. Beer and wine manufacturers will not have a product satisfactory for sale until several months after their production starts, for example. Wholesale licenses, however, require bona fide sales to retailers with the penalty of possible revocation for failure to make sales at least every 45 days (Section 23779).

Section 23800 permits the Department to impose conditions on non-retail as well as retail licenses.

Non-retail licenses may be transferred intercounty. The restrictions in Section 24070 apply only to transfers of retail licenses. (See Section 24077 regarding transfer of any license.)

Posting of the premises is not required for Type 06, 09, 11, 12, 14, 15 and 16 licenses. See P 1 for details on accepting non-retail applications (i.e., forms, etc.).

2. INTERVIEWING APPLICANTS

Determining Correct License Needed

A prime duty in our handling of applications for non-retail types of licenses is assisting qualified applicants to obtain the correct licenses. In most cases, a person who contacts the Department in regard to a retail license realizes when a license is needed. He/she will also probably know the type of license he/she should apply for in a majority of instances. In a high percentage of cases, however, a person who wishes to engage in non-retail activities does not know which type of license will be needed. Frequently, a person will believe that no license is needed for the type of business into which he/she proposes to enter, but a license is required. We may learn of his/her plans through articles in trade journals, through discussions with others in the industry, through calls made to us by the person in regard to questions not directly related to licensing, or from some other sources.

When we are contacted, it is first advisable to ask a prospective applicant for a non-retail type of license to describe his/her business plans. It is then up to us to help him/her determine which license will be needed. We may find it necessary to question him/her extensively to determine the correct license. Use Form ABC-257-NR, Planned Operation-Non-Retail, for this purpose (Illustration No. 1). There may be no license permitting the type of activity that is planned. We must then be able to describe the licenses which come closest to covering his/her plans, and in some cases the applicant may have to alter the proposed method of doing business to comply with the provisions of the statutes which set forth the privileges and limitations of the licenses we have available.

In considering the need for a license and the type necessary, there are three statutes of a general nature that should always be kept in mind.

- (1) **Section 23300.** When we think about Section 23300, we most probably first think about sales

January 30, 2002

without a license. It is true that such acts would be illegal under this section, but it does not mention "sale". It states: "No person shall exercise the privilege or perform any act which a licensee may exercise or perform under the authority of a license unless the person is authorized to do so by a license issued pursuant to this division." (Emphasis added.) Several activities other than sales may create a need for licensing.

- (2) **Section 23355.** A second extremely important section to consider is Section 23355. In essence, this section states that a license authorizes the person to whom issued to exercise the rights and privileges specified in the Act and no others at the premises for which issued during the year for which issued. This statement does not say a licensee may do anything not prohibited by the Act. To the contrary, it says if a privilege is not specifically provided for in the Act for a particular type of license, a holder of that license is not permitted to exercise it.

Holders of non-retail licenses are permitted to hold several types of licenses, often for the same premises, provided there are no tied-house restrictions involved. In order to do all of the things a licensee wants to do, he/she may have several licenses. As an example, a distilled spirits wholesaler may wish to import, sell to retailers, and label bottles. A distilled spirits wholesaler's license does not give the privilege of importing or of labeling. (In contrast, a beer and wine wholesaler may label and even bottle wine.) A distilled spirits wholesaler may obtain a distilled spirits importer's license and import under it. He/she may also obtain a distilled spirits rectifier's general license, which permits the holder to label, whether or not he/she actually rectifies the distilled spirits. The three licenses would enable the wholesaler to do the things he/she wishes to do.

As a general rule, the holder of a non-retail license need not exercise all the privileges of a license; he/she may exercise only part of the privileges. For example, the holder of a beer and wine importer's general license may act as a sales representative and not use the importation privilege at all. However, the Act may require the holder of a particular type of license to perform a certain kind of activity. As an example, to qualify for a new winegrower's license, the applicant must have facilities and equipment for conversion of fruit into wine and engage in the production of wine. (Certain winegrower's licenses issued before 1965 are exempt from this provision, but the licensees holding them must operate bonded wine cellars if they do not make wine. Such licenses are transferable.)

- (3) **Section 23025.** Since the "sale" of alcoholic beverages is the type of activity which most commonly creates the need for a license, we must always be conscious of the definition of that word in Section 23025 when we handle non-retail licensing questions. Please note that "sale" not only includes transfer of title of alcoholic beverages from one person to another, but also includes the delivery of alcoholic beverages pursuant to an order placed for the purchase of such beverages, and soliciting or receiving an order for such beverages. Many licensees engage in soliciting sales without ever being engaged directly in transferring title to alcoholic beverages and are required to be licensed.

The following topics should be discussed with the applicant:

Tied House Laws

The general provisions of the tied-house laws should be discussed with a proposed applicant. Besides those found in Sections 25500-25508, there are several other tied-house sections relating to specific types of licenses. Sections 23771 and 23772 are particularly important when there is to be an application for any kind of distilled spirits license.

Brokers

It is well to be wary when a prospective applicant says he/she wants to be a "broker". We do have some types of licenses that will permit a person to act as a broker between manufacturers, rectifiers, or importer's general and wholesalers, such as distilled spirits manufacturer's agent's license, and a distilled spirits or a beer and wine importer's general license. The only type of broker's license permitting dealings with retailers is a wine broker's license, and then a wine broker must act as a middleman between a California supplier and a retailer, not an out-of-state supplier.

Zoning

It is advisable to discuss the proposed premises before an application for a license is taken, unless the location has been previously licensed with the same type license. Normally, any license must be issued for a premises zoned for business (Section 23790). A few jurisdictions will permit a person to act as a manufacturer's agent from his/her own home provided he/she only solicits orders. Some areas zoned for agriculture will permit the growing of grapes but not the operation of a winery. Other areas zoned for business will permit bottling but not rectifying or the manufacturing of beer, or wine, or distilled spirits.

Equipment

The Bureau of Alcohol, Tobacco, and Firearms (BATF) of the U.S. Treasury Department has rather specific requirements in regard to the equipment which some types of non-retail licensees, such as rectifiers, distillers, brewers, winegrowers, and others must have in order to secure a Federal Basic Permit. Generally, if the equipment meets federal standards it is satisfactory for our purposes. BATF regulations permit a winegrower to use the facilities and equipment of another winegrower to produce wine. This is commonly referred to as an "alternating proprietorship." We would issue separate winegrower licenses to each legal entity.

Storage

In addition to zoning, the types of premises where alcoholic beverages must come to rest when imported should be discussed with the prospective applicant. (See Section 23661). He/she may want to sell from an office and store at a private warehouse where importations could not be received.

The need for storage facilities for wholesalers should also be discussed. If a distilled spirits wholesaler's license will be involved, explain Rule 28 requirements.

Deliveries

Since delivery pursuant to an order is a sale, the relationship of premises and deliveries must be considered. Beer may be sold off a brewer's or wholesaler's truck to a retailer (Section 23388). Distilled spirits sold from one licensee to another licensee must be delivered either from the vendor's premises or from a licensed public warehouse located in the same county as the vendor's premises (Section 23355.1). Wine, however, must only be delivered from the seller's licensed premises (Section 23355). A wholesaler may not make a sale of wine to a retailer and have the delivery made from any premises other than one licensed to that wholesaler. (See Section 23366.5 for an exception when a wholesaler takes an order as agent for a winery. The winery is the seller in that case, makes the delivery, and bills the retailer.) Wine suppliers that store tax-paid wine off their licensed premises must hold an appropriate license, e.g., duplicate winegrower's, at the storage facility if

deliveries are to be made to purchasers from such storage facilities. Exception: No duplicate winegrower's license is required where deliveries of tax-paid wine are made from a licensed public warehouse to California licensees.

Price Posting and Shipper Agreements

If the applicant will handle beer, advise him/her of the need for malt beverage price schedules (Section 25000) and a territorial agreement with the beer manufacturer for every brand of beer he/she sells (Section 25000.5). Exception: It is not necessary for a wholesaler to enter into a territorial agreement with a beer manufacturer for a brand of beer which is owned by the wholesaler (contract brew). If he/she will import beer, either domestic or foreign made, give him/her a copy of Form ABC-578, Instructions to Vendors of Beer. Advise applicant of the requirement that the shipper of foreign-made beer must hold a Certificate of Compliance (Section 23671). Also, advise him/her that a shipper of domestic beer, made outside California, will need both a Certificate of Compliance and an Out-of-State Beer Manufacturer's Certificate (Section 23357.1). If the domestic beer manufacturer also brews beer in California, it is unnecessary for the manufacturer to apply for an Out-of-State Beer Manufacturer's certificate.

If the applicant will be importing distilled spirits advise him/her that the out-of-state vendor must hold an Out-of-State Distilled Spirits Shipper's Certificate (Sections 23366.2, 23366.3; P 210). The applicant should be given Forms ABC-413 and -414, Instructions to Out-of-State Distilled Spirits Shipper and Out-of-State Distilled Spirits Shipper Agreement.

Check the box on Form ABC-257-NR that the applicant was furnished either an ABC-578 or ABC-413/414, or both, if appropriate. Applicants should be informed that failure to comply with the requirements set forth in the informational packets would constitute grounds for disciplinary action. Supplier-type 220's will not be held in Headquarters or District pending receipt of shipper (vendor) agreements or price posting documents.

Advertising Restrictions

During the course of the processing of the application, the applicant should be cautioned about advertising restrictions as set forth in Section 25600 and Rule 106. Emphasis should be placed on the broad definition of "sale" in the rule and the general ban on giving free goods in connection with the marketing of alcoholic beverages.

Credit Sales

In addition, during the course of the processing of the application, applicants for licenses permitting sales to retailers should be instructed on the provisions of the credit law (Section 25509). They should also be advised of the restrictions on credit sales to holders of temporary retail permits (Section 24045.5).

Surety Bond

Most non-retail licenses require that a bond be posted with the Board of Equalization. Advise the applicant that he/she will be contacted by the Board by mail in this regard. Delay in putting up a bond is one of the most frequent causes of delay in issuing such licenses.

Federal Basic Permit

Advise the applicant that he/she should consult with the Bureau of Alcohol Tobacco and Firearms to determine if a Federal Basic Permit is required for the type of business contemplated. Types 02 and 22 licenses generally require either a Bonded Winery or Bonded Wine Cellar permit from BATF. Except for Types 02 and 22 applications, the Department will not withhold license issuance for failure to obtain a Federal basic permit. It remains the applicant's responsibility to fully comply with all Federal requirements.

3. KEY WORDS USED IN READY REFERENCE CHART

The key words used in the reference chart beginning on P 90.7 and their definitions are listed below.

ANNUAL?	What is the annual fee?
SURETY?	Is a surety bond required?
LIMITED?	Is the license limited in number?
RETURNS?	May returns be accepted at termination of season or expiration of temporary retail permit?
EXCHANGE?	May exchanges be made for identical brand and quantity?
MANUFACTURE?	Is the license limited to the manufacture of a specific beverage?
TO WHOLESALERS?	May the licensee sell to wholesalers?
TO RETAILERS?	May the licensee sell to retailers?
TO CONSUMERS?	May the licensee sell to consumers?
RECTIFY?	May the licensee rectify, mix, blend, package and label?
WAREHOUSE RECEIPTS?	May the licensee deal in warehouse receipts?
SOLICIT?	May the licensee solicit orders for other licensees?
BOTTLING?	May the licensee actively engage in bottling, blending, etc.?
IMPORT? EXPORT?	May the licensee export or import?
SAMPLES?	May the licensee give samples to other licensees?
TAX-PAID SALES?	May the licensee sell tax-paid alcoholic beverages to non-licensee on federal reservations, state veterans' homes?

See P 90.6 for complete definition	TYPE 01 1/ BEER MANUFACTURER	TYPE 02 WINEGROWER	TYPE 03 BRANDY MANUFACTURER	TYPE 04 DISTILLED SPIRITS MANUFACTURER
ANNUAL?	\$1,043.00	\$34.00 - \$250.00 Based on gallons 23320	\$212.00	\$348.00
SURETY?	yes	yes	yes	yes
LIMITED?	no	no	no	no
RETURNS?	yes 23104.2	yes 2/ 23100, 23104.1 Rule 79(c)	yes 23104.3	yes 23104.3
EXCHANGE?	yes 23104.2	yes 23104.1	yes 23104.3	yes 23104.3
MANUFACTURE?	yes 23356(a)	yes 3/ 6/ Wine & Brandy 23356(a), 23359	yes 6/ 23356(a)	yes 6/ 23356(a)
TO WHOLESALERS?	yes 23356(c)	yes 3/ 23356(c) (also brandy)	yes 23356(c)	yes 23356(c)
TO RETAILERS?	yes 23357, 23388	yes 23358	yes 23358	No, except distilled in State 23363
TO CONSUMERS?	yes 23357	yes 3/ 4/ 23358	yes 23358, 23360	no
RECTIFY?	yes 23356(b)	yes 23356(b)	yes 23356(b)	yes 23356(b)
WAREHOUSE RECEIPTS?	yes 23356(d), 23381(a)	yes 23356(d), 23381(a)	yes 23356(d), 23381(a)	yes 23356(d), 23381(a)
SOLICIT?	no	yes 23366.5	yes 23366.5	no
BOTTLING?	yes 23356(b)	yes 23356(b)	yes 23356(b)	yes 23356(b)
EXPORT? IMPORT?	Export only 23356(b)	Export only 23356(b)	Export only 23356(b)	Export only 23356(b)
SAMPLES?	yes 5/ 23386 Rule 52	yes 5/ 23386 Rule 52	yes 23386 Rule 52	yes 23386 Rule 52
TAX-PAID SALES?	yes 23384	yes 23384	yes 23384	no

- 1/ May hold duplicate license at Branch Office; no manufacture permitted. \$69.00 fee.
- 2/ Cannot sell for one year.
- 3/ Section 23358 - must produce 50% of all wines sold to consumers on his/her licensed premises and any branch premises.
- 4/ Section 23390.5 - a winegrower may only hold one duplicate license where sales are made to consumers except when issued prior to 9/17/65.
- 5/ See Section 25503.9 for donations by Beer Manufacturer, Winegrower, Distilled Spirits Manufacturer,

January 30, 2002

Distilled Spirits Manufacturer's Agent, and Importer.

6/ This license gives no privileges to possess a still without a still license.

See P 90.6 for complete definition	TYPE 05 DISTILLED SPIRITS MANUFACTURER'S AGT.	TYPE 06 STILL	TYPE 07 RECTIFIER	TYPE 08 WINE RECTIFIER
ANNUAL?	\$348.00	\$33.00 per still	\$348.00	\$348.00
SURETY?	yes	no	yes	no
LIMITED?	no	no	no	no
RETURNS?	no	no	yes 23104.3	yes 23100, 23104.1 Rule 79(c)
EXCHANGE?	no	no	yes 23104.3	yes 23104.1
MANUFACTURE?	no	no	no 6/	no 6/
TO WHOLESALEERS?	yes 23366(d)	no	yes 23368	yes 23368, 23372
TO RETAILERS?	no	no	yes 23368, 23371	yes 23368, 23372
TO CONSUMERS?	no 7/	no	no	no
RECTIFY?	yes 23366(c)	no	yes 23368	yes 23372
WAREHOUSE RECEIPTS?	yes 23381(a)	no	yes 23381(a)	yes 23381(a)
SOLICIT?	yes 23366.5	no	no	no
BOTTLING?	yes 23366(d)	no	yes 23369	yes 23372
EXPORT? IMPORT?	Export only 23366(b)	no	Export only 23368	Export only 23372
SAMPLES?	yes 23386 Rule 52	no	yes 23386 Rule 52	yes 23386 Rule 52
TAX-PAID SALES?	no	no	yes 23384	yes 23384

6/ This license gives no privileges to possess a still without a still license.

7/ To holders of distilled spirits license only.

See P 90.6 for complete definition	TYPE 09 8/ BEER & WINE IMPORTER	TYPE 10 BEER & WINE IMPORTER'S GEN'L	TYPE 11 8/ BRANDY IMPORTER	TYPE 12 8/ DISTILLED SPIRITS IMPORTER
ANNUAL?	\$25.00	\$147.00	\$25.00	\$25.00
SURETY?	yes	yes	yes	yes
LIMITED?	no	no	no	no
RETURNS?	no	no	no	no
EXCHANGE?	no	no	no	no
MANUFACTURE?	no	no	no	no
TO WHOLESALERS?	no	yes 23374.6	no	no
TO RETAILERS?	no	no	no	no
TO CONSUMERS?	no	no	no	no
RECTIFY?	no	no	no	no
WAREHOUSE RECEIPTS?	no	no	no	no
SOLICIT?	no	no	no	no
BOTTLING?	no	no	no	no
EXPORT? IMPORT?	Import & Export 23374	Import & Export	Import & Export 23374	Import & Export 23374
SAMPLES?	no	yes 23017, 23386	no	no
TAX-PAID SALES?	no	no	no	no

8/ Section 23775 - Importer's license shall be issued only to a person or manufacturer who holds a license authorizing the sale for resale of the type of alcoholic beverages mentioned in the importer's license. This license cannot be held alone.

See P 90.6 for complete definition	TYPE 13 DISTILLED SPIRITS IMPORTER'S GEN'L.	TYPE 14 9/ PUBLIC WAREHOUSE	TYPE 15 10/ CUSTOMS BROKER	TYPE 16 11/ WINE BROKER
ANNUAL?	\$348.00	\$33.00	\$33.00	\$71.00

SURETY?	yes	no	yes	no
LIMITED?	no	no	no	no
RETURNS?	no	no	no	no
EXCHANGE?	no	no	no	no
MANUFACTURE?	no	no	no	no
TO WHOLESALEERS?	yes 23374.5	no	no	yes 23377
TO RETAILERS?	no	no	no	yes 23377
TO CONSUMERS?	no	no	no	no
RECTIFY?	no	no	no	no
WAREHOUSE RECEIPTS?	no	no	no	no
SOLICIT?	no	no	no	no
BOTTLING?	no	no	no	no
EXPORT? IMPORT?	Import & Export Only	no	Import & Export 23376	Export Only 23377
SAMPLES?	yes 23017, 23386	no	no	no
TAX-PAID SALES?	no	no	no	no

9/ Sections 23036, 23375 & 24041. This license does not permit sale.

10/ Sections 23019, 23376 and 23661. This license can only receive delivery of, possess, export and transfer alcoholic beverages to licensed importers.

11/ Sections 23020 & 23377. This license cannot buy, sell or take or deliver title to wine or receive or store any wine in this State under his/her name. He/She works on a commission and can only bring a buyer and seller of wine together; cannot solicit customers nor work for retailer.

See P 90.6 for complete definition	TYPE 17 BEER & WINE WHOLESALE	TYPE 18 DISTILLED SPIRITS WHOLESALE	TYPE 19 12/ INDUSTRIAL ALCOHOL DEALER	TYPE 22 13/ WINE BLENDER
ANNUAL?	\$147.00	\$348.00	\$71.00	\$34.00 - \$250.00 Based on gallons 23320

January 30, 2002

SURETY?	no	yes	yes	yes
LIMITED?	no	no	no	no
RETURNS?	yes 23104.2	yes 23104.3	no	yes 23100, 23104.1 Rule 79(c)
EXCHANGE?	yes 23104.2	yes 23104.3	no	yes 23104.1
MANUFACTURE?	no	no	no	no 6/ 23356.5
TO WHOLESALERS?	yes 23378	yes 23378	no	yes 23356(c)
TO RETAILERS?	yes 23378, 23388	yes 23378	no	yes 23358
TO CONSUMERS?	no 14/ Unless holds Type 20 License	no	no 23380	no 23356.5
RECTIFY?	yes, Package & label wine only 23379	no	no	yes 23356(b)
WAREHOUSE RECEIPTS?	yes 23381	yes 23381	no	yes 23356, 23381
SOLICIT?	yes	no	no	yes 23366.5
BOTTLING?	Bottle Wine Only - See 23379	no	no	yes 23356(b)
EXPORT? IMPORT?	Export Only 23378	Export Only 23378	Import & Export 23380	Export Only 23356(b)
SAMPLES?	yes 23386 Rule 52	yes 23386 Rule 52	no	yes 23386 Rule 52
TAX-PAID SALES?	yes 23384	yes 23384	no	yes 23384

6/ This license gives no privileges to possess a still without a still license.

12/ Sections 23110, 23111, 23112 & 23113. May sell to industry for industrial uses.

13/ Sections 23356.5 & 23356.6. This license has same privileges as a winegrower with four exceptions.

14/ Sales to consumers restricted to wine only (Section 23378.2).

See P 90.6 for complete definition	TYPE 23 SMALL BEER MANUFACTURER	TYPE 24 DISTILLED SPIRITS RECTIFIER'S GEN.	TYPE 25 CALIF. BRANDY WHOESAL. LIC.	TYPE 27 CA WINEGROWER'S AGENT	TYPE 29 WINE GRAPE GRWR'S STOR.
--	---------------------------------------	---	---	--	--

ANNUAL?	\$127.00	\$348.00 23368.1	\$348.00	\$348.00 23373	\$56.00
SURETY?	yes	yes	yes	no	no
LIMITED?	no	no	no	no	no
RETURNS?	yes 23104.2	no	yes 23104.3	no	no
EXCHANGE?	yes 23104.2	no	yes 23104.3	no	no
MANUFACTURE ?	yes 23356(a)	no 6/ 23368.1	no	no	no
TO WHOLESALEERS?	yes 23356(c)	yes 23368.1	yes 23378 23378.1	yes	no
TO RETAILERS?	yes 23357, 23388	no 23368.1	yes 23378 23378.1	no	no
TO CONSUMERS?	yes 23357	no 23368.1	no	no	no
RECTIFY?	yes 23356(b)	yes 23368.1	no	no	no
WAREHOUSE RECEIPTS?	yes 23356(d), 23381(a)	yes	yes 23381	yes	yes
SOLICIT?	no	no	no	no	no
BOTTLING?	yes 23356(b)	yes 23368.1	no	no	no
EXPORT? IMPORT?	Export Only 23356(b)	Export Only 23368.1	Export Only 23378.1	Export Only	no
SAMPLES?	yes 5/ 23386 Rule 52	yes 23386	yes 23386 Rule 52	yes 23373.4	no
TAX-PAID SALES?	yes 23384	no	yes 23384	no	no

5/ See Section 25503.9 for donations by Beer Manufacturer, Winegrower, Distilled Spirits Manufacturer, Distilled Spirits Manufacturer's Agent and Importer.

6/ This license gives no privileges to possess a still without a still license.

5. SPECIFIC LICENSE TYPES: Definitions, Privileges and Limitations

BEER MANUFACTURER - TYPE 01 (over 60,000 barrels per year)

Introduction

The beer manufacturer's license is a type required by makers of beer in this State. An exception given under State and Federal law enables a person to produce up to 100 gallons of beer a year for his/her own consumption (maximum of 200 gallons per household). See "General Information" and "Interviewing Applicants and Processing Applications" above for a discussion of non-retail licenses in general. See information under Small Beer Manufacturer (Type 23) for additional details concerning brewpubs and micro-breweries.

Definitions and Functions

"Beer manufacturer" means any person, except those manufacturing pursuant to Section 23356.2, engaged in the manufacture of beer (Section 23012). The Constitution and the Act require that beer manufacturers be licensed. Beer is defined as "...any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or other similar product, or any combination thereof in water..." Included are ale, porter, brown, stout, lager beer, small beer, and strong beer (Section 23006). Beer sold in this state must be properly labeled with a statement of alcoholic strength if the contents exceed 5.7 percent alcohol by volume (Section 25204).

Privileges and Limitations

A beer manufacturer's license is not limited in number. There is no limitation on the amount of beer produced by a beer manufacturer who may even sell beer packaged for him/her by other beer manufacturers (Section 23356). He/she may sell beer to any beer licensee (Section 23357) and may sell such beer from trucks operated by the licensee without a prior order (Section 23388). A beer manufacturer may sell tax-paid beer to certain non-licensed individuals located upon military reservations, national parks or veterans' homes (Section 23384). A beer manufacturer may also sell its own brand(s) of beer to consumers for consumption off the premises without the need for any additional license. A Type 20 license is required if the manufacturer sells other beer manufacturers' brands of beer to consumers for consumption off the manufacturer's premises (Section 23357). Without need of additional licenses a beer manufacturer may sell beer and wine, regardless of source, to consumers for consumption at a bona fide public eating place within the manufacturer's licensed premises or on property contiguous to the premises (Section 23357). This licensee may serve food and alcoholic beverages to other licensees and/or non-licensees visiting his/her licensed premises (Section 25503.7) and may conduct courses of instruction on the subject of beer for licensees and provide beer as may be required for use in connection therewith at his/her own premises or elsewhere (Section 25503.5).

A beer manufacturer may export his/her product without the necessity of any further license, but must hold a beer and wine importer's license (Type 09) to import. Unless the beer manufacturer also has a license permitting the sale of wine for resale, a beer and wine importer's license should be conditioned to permit the importation of beer only.

Returns and exchanges of beer from retailers are restrictive, and Section 23104.2 and P 200 should be followed closely.

A beer manufacturer may conduct beer tastings under specified conditions (Sections 23357.3 and 23357.4).

A beer manufacturer may give samples to licensees in accordance with Section 23386 and Rule 52.

Hours of delivery of beer to retailers are restricted to 3 a.m. until 8 p.m. Monday through Saturday. Incoming shipments to the licensed premises or transportation of beer to other supplier-type licensees are not restricted and may be made at any time. Sales at the manufacturer's premises may also be made at any time. (Section 25633.)

Sales records and records of all expenditures incurred in the sale and distribution of beer by the beer manufacturer must be maintained at the licensed premises. (Section 25752.)

In addition to the privileges granted at the licensed premises, a beer manufacturer may sell and deliver beer from a licensed branch office and exercise all privileges of the master license there except manufacturing. The duplicate license shall be issued forthwith upon application, and there is no limitation on the number he/she may hold. If he/she desires to engage in retail sales at the duplicate premises he/she must, however, apply for an off-sale beer and wine license (Type 20), and such application shall be processed in the usual manner. (Section 23389.) Posting of the duplicate premises is required.

Tied-House

As a general rule, no tied-house restrictions exist with a beer manufacturer having interest in any of the other supplier-type licenses.

Section 23357 allows beer manufacturers to hold off-sale beer and wine licenses provided that beer and wine sold at or from the off-sale premises which are not produced and bottled by, or produced and packaged for, the beer manufacturer shall be purchased by the beer manufacturer only from a licensed wholesaler. A beer manufacturer is generally prohibited from any ownership in an on-sale license (Section 25500) or off-sale general license (Section 25502). However, a small beer manufacturer may hold an ownership interest in up to six on-sale licenses. Refer to "tied-house" information under Type 23 license for exceptions which apply to small beer manufacturers only. Certain exceptions are provided for in Sections 25503.11, 25503.16, 25503.17, 25503.18, 25503.19, 25503.20, 25503.29 and 25503.37. Subject to the restrictions of Sections 25503.10 and 25503.21, this type of licensee may lease real property to retail licensees. He/she may hold no interest in any business dealing in furnishing equipment, other than signs for interior use, to on-sale premises (Section 25501). He/she may, however, loan and service certain tapping equipment to new on-sale accounts (Sections 25501, 25504, 25510, and Rule 131).

When processing an application for a beer manufacturer's license by a corporation, limited liability company, or limited partnership, it is necessary to complete Form ABC-140, Certification Re Chapter 15 Tied-House Restrictions. Although our investigations of stockholders, limited liability company members, or limited partners, normally are confined to those persons holding 10% or more of the stock in a corporation or equity interest in a limited liability company or limited partnership, if a tied-house situation is discovered involving a person holding less than a 10% interest, it should be reported on. If the largest stockholder, member, or limited partner holds less than 10% of stock or equity interest, a tied-house situation in which they are involved may be grounds for denial of the application.

Premises

Local zoning regulations should be checked closely prior to licensing a manufacturing plant.

While the Constitution and the Act require that a beer manufacturer be licensed, they do not specify what equipment or facilities he/she needs in order to qualify as a bona fide beer manufacturer. The Bureau of Alcohol, Tobacco and Firearms, U.S. Treasury Department, regulates specific requirements in this area and may be consulted if a question exists regarding equipment.

Warehousing and storage of beer may be made at any point in the State (Section 23106). Transfer of title (sale) of beer stored away from the licensed premises is only authorized at certain regulated warehouses as specified in Section 23383 although sales may be made directly from trucks (Section 23388).

Price Posting

A beer manufacturer must file prices for beer sold to wholesalers and retailers (Section 25000). If he/she sells beer to wholesalers, territorial limits must be designated within which those wholesalers may distribute his/her products (Section 25000.5). Exception: Beer manufacturers who manufacture beer under contract ("contract brew") for a wholesaler need not execute a territorial agreement with that wholesaler. If he/she produces draft beer for sale in California the brand names thereof must be filed with the Department prior to marketing the product(s) in California. The California Department of Conservation, Division of Recycling, also has specific requirements concerning malt beverage container labeling as mandated by the Beverage Container Recycling and Litter Reduction Act. Applicants should be referred to the Division of Recycling for additional information.

It is the responsibility of the District Office to properly inform applicants for beer manufacturer licenses of the price posting/territorial agreement requirements. The applicant should be given Form ABC-578, Instructions to Vendors of Beer, which sets forth these requirements and provides other useful information. Check the box on Form ABC-257-NR that this informational packet was provided to the applicant.

Other Requirements

The Board of Equalization requires beer manufacturers to post a surety bond. The Board will notify the applicant regarding the bond shortly after the application has been made with us. Failure to satisfy this requirement will delay/prevent issuance of the license.

Applicants should be referred to the Bureau of Alcohol, Tobacco and Firearms which requires beer manufacturers to file a Brewer's Notice. It is not necessary to obtain copies of the Federal paperwork for our file.

WINEGROWER - TYPE 02

Introduction

The following pertains to new winegrowers' licenses issued after September 17, 1965. Any differences in regard to the licenses issued before that date will be summarized under "Grandfather Privileges". See "General Information" and "Interviewing Applicants and Processing Applications" above, for a discussion of non-retail licenses in general.

Definitions and Functions

A winegrower must have facilities and equipment for the conversion of fruit into wine and engage in the production of wine (Section 23013). Federal Bureau of Alcohol, Tobacco and Firearms (BATF) regulations permit a winegrower to use the facilities and equipment of another winegrower to produce wine. This is commonly referred to as an "alternating proprietorship." We would issue separate winegrower licenses to each legal entity manufacturing wine under its own bonded winery permit. Wine must be made from the fermentation of agricultural products to which may be added brandy which is distilled from the same agricultural product from which the wine is made. Thus, neutral grain or other distilled spirits cannot be used to fortify wine, only brandy of a specific type. No more than 15% added flavoring or blending material may be added. (Section 23007).

Privileges and Limitations

A winegrower may exercise the privileges listed in Section 23356. He may conduct winetastings under prescribed conditions. (Section 23356.1; Rule 53.) In addition to those privileges, he may sell both wine and brandy to any person holding a license authorizing the sale of wine or brandy. He may also sell these products off-sale to consumers, provided that he must produce not less than 50% of the wine he sells to consumers on any and all of his premises. He may also operate a bona fide public eating place on his licensed premises or on premises owned by him that are contiguous to the licensed premises and sell all beers, wines and brandies, regardless of source, in that eating place for consumption on the premises without the necessity of holding an on-sale license. (Section 23358.)

The wine and brandy which he may sell to consumers for consumption off the premises is generally limited to wine or brandy which is produced or bottled by or which is produced for or is produced and packaged for the winegrower, and which is sold under a brand name owned by such licensee. (Section 23358.2) However, a winegrower who sold domestic wine under a brand name or trade name not owned by such licensee prior to July 1, 1970, may continue to sell such wine (Section 23356.1(b)) and a winegrower, licensed prior to July 1, 1970, may continue to sell such wine. (Section 23356.1(c).)

A winegrower's license authorizes the holder to manufacture grape brandy for fortification purposes (Section 23359). Still licenses must be obtained by the winegrower who produces brandy for such purposes. (Section 23367). If a winegrower manufactures brandy for other than fortification purposes, he/she must also hold a brandy manufacturer's license (Type 03).

Winegrowers' licenses are not limited in number. When a winegrower's license is applied for, the fee taken should be based on a reasonable estimate of production (Sections 23955 and 23320).

A winegrower may hold a duplicate winegrower's license under which he/she may exercise the same privileges that could be exercised at his/her premises of production, except: manufacture wine or brandy, sell wine and brandy for consumption on the premises, or sell wine to consumers in containers supplied by the consumer. (Section 23390.) There is no limitation as to the number of duplicate licenses that may be issued. However, a winegrower may sell wine and brandy to consumers or engage in winetastings at only one duplicate licensed premises. (Section 23390.5)

Section 23390 makes provision for immediate issuance of a duplicate winegrower license forthwith. Use Form ABC-239, Correction/Application Request for the application (Illustration No. 2). In order to accomplish a "forthwith" issuance, District must: (1) accept only a cashier's check or money order; (2) clearly note in highlighted capital letters on the top or bottom of the ABC-239: "ISSUE FORTHWITH PER SECTION 23390"; (3) attach any appropriate conditions or note on the ABC-239 that no conditions are required, and also note that ABC-220 will follow; and (4) recommend approval and sign the ABC-239. Posting of the duplicate premises is required.

When a winegrower fails to carry on business actively for one year, such winegrower's license may only be transferred to a person who qualifies as a winegrower under present laws. (Section 24070.5).

A winegrower may sell for export (Section 23356). Sales within this State for use without the State must be made in accordance with Rule 54. If a licensee requests information about exporting, it is well to advise him/her to check the regulations of the State into which shipment will be made. The regulations of the individual states vary greatly; many require the shipper to hold an importer's license or an out-of-state manufacturer's license in their state before a shipment may be made into it.

Winegrowers may sell to federal areas and veterans' homes in accordance with Section 23384. A winegrower may give samples to retailers in accordance with Section 23386 and Rule 52(a). Winetasting cannot be conducted on that portion of a winegrower's premises licensed with an off-sale beer and wine or an off-sale general license. There must be a physical separation between the retail premises and the winegrower's premises although they may be joined by a door.

While a winegrower may also hold importer's licenses, unless he/she also has a license permitting the sale

of beer for resale, a beer and wine importer's license should be conditioned to permit the importation of wine only.

There are certain restrictions as to wine bottle shape and labeling of which an applicant for a winegrower's license should be informed (Sections 25235 to 25241).

The hours of delivery and sale at wholesale by winegrowers are similar to those for beer and wine wholesalers. Deliveries may be made from 3 a.m. until 8 p.m. Monday through Saturday. Sales may be made from the platform at the winery at any time (Section 25633).

It is not generally necessary that a winegrower keep records of sales of wine; however, see Section 25238. He/she must do so for brandy (Section 25752). See Rule 17 for sales invoice requirements.

Returns and exchanges of wine must be handled in accordance with Section 23104.1. (See P 200 for procedures.)

A winegrower licensee may deliver its tax-paid wine from a storage facility holding a public warehouse license to any California licensee authorized to purchase wine without the necessity of a duplicate winegrower's license at the public warehouse.

Tied-House

A winegrower may hold both off-sale beer and wine and off-sale general licenses (Section 23362). Issuance of these off-sale general licenses is subject to the provisions of Sections 23815 - 23827. A winegrower may have an interest in an on-sale premises under conditions as specified in Section 25503.15. Depending on specific circumstances an "undertaking" may or may not be required. Additionally, a winegrower may hold an interest in on-sale licenses under the exceptions provided for in Sections 25503.11, 25503.16, 25503.17, 25503.18, 25503.19, 25503.20, 25503.29, 25503.30 and 25503.37. Subject to the restrictions of Sections 25503.10 and 25503.21, this type of licensee may lease real property to retail licensees.

There is no tied-house prohibition against a winegrower holding wholesaler's, rectifier's, manufacturer's or other supplier-type licenses. He/she may hold an off-sale general and a distilled spirits wholesaler's license at the same time (Section 25507). However, he/she may not hold a beer and wine wholesaler's or an importer's license if he/she holds an off-sale general license (Section 25502).

When processing an application for a winegrower's license by a corporation, limited liability company, or limited partnership, it is necessary to complete Form ABC-140, Certification Re Chapter 15 Tied-House Restrictions. Although our investigations of stockholders, limited liability company members, or limited partners, normally are confined to those persons owning 10% or more of the stock in a corporation or equity interest in a limited liability company or limited partnership, if a tied-house situation is discovered involving a person holding less than a 10% interest, it should be reported on. If the largest stockholder, member, or limited partner holds less than 10% of stock or equity interest, a tied-house situation in which they are involved may be grounds for denial of the application.

Premises

As with other types of license applications, we should check for proper zoning with the applicable local authorities. An area zoned for business may not be the correct zoning for a winery. Even manufacturing districts may have restrictions against certain types of businesses.

Importations of wine must come to rest at a winegrower's premises or the premises of a public warehouse licensee for the account of a winery which holds an importer's license (Section 23661). Deliveries of wine sold by a winegrower must be made only from his/her licensed premises (Section 23355). A duplicate winegrower's license is not required if tax-paid wine is delivered from a licensed public warehouse to California licensees. Deliveries of non-tax paid wine or deliveries of tax-paid wine to other than California licensees from a storage facility not located at the winegrower's place of production requires a duplicate

winegrower's license for that location.

Tax-paid wine may be stored any place in the State without the need for a private warehouse permit. If a winery stores brandy off the licensed premises, it must be stored on the premises of a licensed public warehouse or a premises where a private warehouse permit is in effect (Sections 23035 and 23106).

Other Requirements

A winegrower must be issued a Bonded Winery Permit by BATF to produce and blend wine (Section 23770). We need a copy of the application for this permit. The permit number should be entered on the ABC-220. The ABC-220 will not be considered complete until BATF has issued the permit to the applicant. Sake producers must apply for a winegrower's license. Inasmuch as BATF will only issue a Brewer's Notice to Sake producers the "bonded winery permit" requirement will not apply.

The Board of Equalization requires winegrowers to post a surety bond. The Board will notify the applicant regarding the bond shortly after the application has been made with us. Failure to satisfy this requirement will delay/prevent issuance of the license.

Grandfather Privileges

Before September 17, 1965, winegrower's licenses were issued both to persons who operated wineries and to those who operated bonded wine cellars. Winegrowers were permitted to have an unlimited number of duplicate licenses for premises at which they sold wine to consumers. With the changes in the law effective at that time, Section 23356.7 was passed which permitted the holders of winegrower's and duplicate winegrower's licenses to continue to operate as they had previously and made such licenses transferable with "grandfathered" privileges. An Attorney General's Opinion, dated May 11, 1967, interprets the section to mean that a winegrower holding one or more duplicate winegrower's licenses before September 17, 1965, cannot obtain additional duplicate licenses where sales to consumers will be made (Sections 23390 and 23390.5). The opinion also holds that a winegrower who produced more than 50% of the wine sold to consumers on his/her licensed premises before that date must continue to do so (Section 23358).

BRANDY MANUFACTURER - TYPE 03

Introduction

The following pertains to brandy manufacturers' licenses, and to duplicate brandy manufacturer's licenses issued after September 17, 1965. The differences in regard to duplicate licenses issued before that date will be included in the discussion of duplicate licenses. See "General Information" and "Interviewing Applicants and Processing Applications" above, for a discussion of non-retail licenses in general.

Definitions and Functions

A brandy manufacturer's license authorizes the holder to manufacture only brandy and not other distilled spirits (Sections 23014). Brandy made by the distillation of wine or fermented fruit. See Section 23007 for the definition of "wine" as used in the Alcoholic Beverage Control Act.

Privileges and Limitations

A brandy manufacturer may exercise the privileges listed in Section 23356. In addition to those privileges, he may sell both brandy and wine to any person having a license authorizing the sale of brandy and wine (Section 23360). He may also sell these products to consumers for consumption off his premises provided that he is permitted to sell only wine or brandy which is produced or bottled by him, or wine or brandy which is produced for or is produced and packaged for him and is sold under a brand name owned by him when selling to consumers (Section 23358.2). A brandy manufacturer may sell grape brandy, fruit brandy, or spirits of wine to winegrowers for use in the production of wine, for the manufacture of alcohol for the United States Government, and for sale to consumers (Section 23361). This license, by itself, does not authorize the possession of a still; a still license is necessary (Section 23367). A brandy manufacturer may solicit the sale of brandy on behalf of any licensee authorized to sell brandy for resale (Section 23366.5). If he solicits for another supplier, shipment must be from that supplier's warehouse or a public warehouse licensed in the same county as the supplier (Section 23355). A brandy manufacturer may sell brandy for industrial use also (Section 23385).

A brandy manufacturer may hold duplicate brandy manufacturer's licenses under which he may exercise all the license privileges except manufacturing and selling wine to consumers in containers supplied, furnished, or sold by the consumer (Section 23390). He may only hold one duplicate license at which he make sales of brandy and wine to consumers for consumption off the premises, except that he may continue to hold additional duplicate licenses which he held on September 17, 1965, and may sell to consumers at these duplicate licensed premises. Such additional duplicate licenses are transferable only along with the master license.

A brandy manufacturer may sell for export (Section 23356). Sales within this State for use without the State must be made in accordance with Rule 54. If a licensee requests information about exporting, it is well to advise the licensee to check the regulations of the state into which the licensee will ship. The regulations of the individual states vary greatly; many require the shipper to hold an importer's license or an out-of-state manufacturer's license in their state before a shipment may be made into it.

A brandy manufacturer may sell to federal areas and veterans' homes (Section 23384).

A brandy manufacturer may give samples to licensees. (Section 23386 and Rule 52(a)). Samples to consumers are not permitted.

While a brandy manufacturer may also hold importer's licenses, unless he/she also has a license permitting the sale of beer for resale, a beer and wine importer's license should be conditioned to permit the importation of wine only. If a brandy manufacturer imports brandy and has no other license permitting the sale of distilled spirits, he/she should import brandy on a brandy importer's license (Type 11).

The hours of delivery and sale of brandy by brandy manufacturers to retailers are between 3 a.m. and 8 p.m. on any day other than Sunday. He/she may sell wine or brandy at his/her premises from the platform at any time (Section 25633).

It is not necessary that a brandy manufacturer keep a record of sales of wine. He/she must keep records of manufacturing, importation, sales, and distribution of brandy for a period of three years from the date of the transaction (Section 25752). Invoices must be prepared and retained in compliance with Rule 17.

Returns and exchanges of wine must be handled in accordance with Section 23104.1. Returns and exchanges of brandy are handled as for other distilled spirits in accordance with Section 23104.3 (see P 200 for procedures).

Tied-House

A brandy manufacturer may hold both off-sale beer and wine and off-sale general licenses (Section 23362). Issuance of these off-sale general licenses is subject to the provisions of Sections 23815 - 23827. A brandy manufacturer generally is prohibited from having any interest in an on-sale retail license. Exceptions to the general prohibition are found in Sections 25503.11, 25503.16, 25503.17, 25503.18, 25503.19, 25503.20, 25503.29 and 25503.37. Subject to the restrictions of Sections 25503.10 and 25503.2, this type of licensee may lease real property to retail licensees.

There is no tied-house prohibition against a brandy manufacturer holding wholesaler's, rectifier's, manufacturer's, or other supplier-type licenses.

He/she may hold an off-sale general and a distilled spirits wholesaler's license at the same time (Section 25507). However, he/she may not hold a beer and wine wholesaler's or importer's license if he/she holds an off-sale general license (Sections 25502 and 25506).

When processing an application for a brandy manufacturer's license by a corporation, limited liability company, or limited partnership, it is necessary to complete Form ABC-140, Certification Re Chapter 15 Tied-House Restrictions. Although our investigations of stockholders, limited liability company members, or limited partners, normally are confined to those persons holding 10% or more of the stock in a corporation or equity interest in a limited liability company or limited partnership, if a tied-house situation is discovered involving a person holding less than a 10% interest, it should be reported on. If the largest stockholder, member, or limited partner holds less than 10% of stock or equity interest, a tied-house situation in which they are involved may be grounds for denial of the application.

Premises

As with other types of license applications, we should check for proper zoning with the applicable local authorities. An area zoned for business may not be the correct zoning for a brandy manufacturer. Even manufacturing districts may have restrictions against certain types of businesses.

Importations of alcoholic beverages must come to rest at the importer's premises or the premises of a public warehouse licensee for the account of a brandy manufacturer who holds an importer's license (Section 23661). Deliveries of wine to authorized purchasers must be made only from his/her licensed premises. Deliveries of brandy must be made from either the licensed premises or a public or private warehouse licensed by this Department in the same county as the licensed premises. (Sections 23355.1 and 23106.)

Tax-paid wine may be stored any place in the State without the need for a private warehouse permit. If a brandy manufacturer stores brandy off the licensed premises, it must be stored on the premises of a public warehouse licensee or a premises where a private warehouse permit is in effect (Sections 23035 and 23106). A retailer may not store alcoholic beverages on a brandy manufacturer's premises.

Other Requirements

The Board of Equalization requires brandy manufacturers to post a surety bond. The Board will notify the applicant regarding the bond shortly after the application has been made with us. Failure to satisfy this

requirement will delay/prevent issuance of the license.

DISTILLED SPIRITS MANUFACTURER - TYPE 04

Introduction

The following pertains to new distilled spirits manufacturer's licenses issued after September 18, 1959. Any differences in privileges in regard to licenses originally issued before that date will be found under "Privileges and Limitations" below. See "General Information" and "Interviewing Applicants and Processing Applications" above, for a discussion of non-retail licenses in general.

Definitions and Functions

The Act defines a distilled spirits manufacturer as "...any person who produces distilled spirits from naturally fermented materials or in any other manner" (Section 23015). The functions of this type of license, in addition to that of production, include packaging, bottling, rectifying, flavoring and others as found within Section 23356. The functions apply only to distilled spirits; they do not include wine or beer.

Privileges and Limitations

A distilled spirits manufacturer's license authorizes the holder to exercise all the privileges found in Section 23356. This license does not automatically include the privilege of possessing a still. A still license (Type 06) is required for each still located upon the premises (Section 23367).

A distilled spirits manufacturer who was licensed in this State prior to September 18, 1959, and was selling distilled spirits to retailers prior to that date may continue to do so (Section 23363). A distilled spirits manufacturer licensed after September 18, 1959, can sell only brandy to retailers. He may sell distilled spirits packaged by or for him only to distilled spirits wholesalers, other distilled spirits manufacturers, distilled spirits manufacturer's agents and distilled spirits rectifiers (Sections 23363, 23356). He may not sell to the military (Section 23384). He may, however, sell industrial spirits or nonbeverage spirits to nonlicensees for use in the trades, professions or industries, and the containers or packages must be larger than one gallon (Section 23385).

A distilled spirits manufacturer may store in a licensed public or approved private warehouse located in the same county as the manufacturer's licensed premises and may deliver from those locations (Section 23355.1 and 23106). He may deal in distilled spirits warehouse receipts and may transfer title of distilled spirits stored in certain specified warehouses located within the State (Sections 23383 and 23356).

Except as provided by Section 23363, a distilled spirits manufacturer may not sell distilled spirits to retail licensees. He may not solicit a consumer in any way to purchase from specific retailers (Section 23366.1). He may only sample those licensees to whom he is authorized to sell (Section 23386, Rule 52). He may not deliver distilled spirits to a retailer for the account of wholesalers or retailers, nor may he accept orders from retailers and deliver them to wholesalers or retailers. His relationship is generally limited to advertising, stocking & shelving activity, providing certain hospitality, and presenting instructional/educational courses. (Sections 25503.1, 25503.2, 25503.3, and 25503.5)

A distilled spirits manufacturer, or its authorized agent, may instruct consumers at an on-sale retail premises authorized to sell its product with the permission of the retail on-sale licensee. The instruction of consumers may include the furnishing of not more than three tastings to any individual in one day. A single tasting of distilled spirits may not exceed one-fourth of one ounce (Section 25503.5).

Records of sale and other expenses incurred within the State must be maintained at the licensed premises (Section 25752).

A distilled spirits manufacturer is prohibited from paying stock dividends in distilled spirits or granting

special purchase privileges (Section 23365).

Tied-House

Tied-house prohibitions are specific as to other licenses he/she may hold. He/she may hold no interest in any distilled spirits license other than a distilled spirits importer's license and certain club-type licenses mentioned in Sections 25500 and 23772. Generally speaking, a distilled spirits manufacturer is prohibited from having any interest in an on-sale or off-sale license (Sections 25500 and 25502). Exceptions to the general prohibitions are provided for in Sections 25503.11, 25503.16, 25503.17, 25503.18, 25503.19, 25503.20, 25503.29 and 25503.37. Subject to the restrictions of Sections 25503.10 and 25503.21, this type of licensee may lease real property to retail licensees.

When processing an application for a distilled spirits manufacturer's license by a corporation, limited liability company, or limited partnership, it is necessary to complete a Form ABC-140, Certification Re Chapter 15 Tied-House Restrictions. Although our investigations of stockholders, limited liability company members, or limited partners, normally are confined to those persons holding 10% or more of the stock in a corporation or equity interest in a limited liability company or limited partnership, if a tied-house situation is discovered involving a person holding less than a 10% interest, it should be reported on. If the largest stockholder, member, or limited partner holds less than 10% of its stock or equity interest, a tied-house situation in which they are involved may be grounds for denial of the application.

Premises

Zoning requirements should be closely checked when an application for this type of license is made. Manufacturing districts may have special zoning restrictions for certain types of production plants, especially if these emit fumes of certain types. The equipment and materials required of a distilled spirits manufacturer are specified by the Bureau of Alcohol, Tobacco and Firearms, U.S. Treasury Department.

Other Requirements

The Board of Equalization requires distilled spirits manufacturers to post a surety bond. The Board will notify the applicant regarding the bond shortly after the application has been made with us. Failure to satisfy this requirement will delay/prevent issuance of the license.

DISTILLED SPIRITS MANUFACTURER'S AGENT - TYPE 05

Introduction

A distilled spirits manufacturer's agent's license is most frequently issued to an agent of an out-of-state distillery, although it may be issued in the name of the distillery itself. See "General Information" and "Interviewing Applicants and Processing Applications" above, for a discussion of non-retail licenses in general.

Definitions and Functions

A distilled spirits manufacturer's agent promotes the products and does missionary work for an out-of-state distiller.

Privileges and Limitations

A distilled spirits manufacturer's agent may represent one or more out-of-state distillers and may solicit sales from licensed distilled spirits manufacturers, rectifiers, or distilled spirits wholesalers (Section 23366). In addition to promotional activity, he/she may also cut, blend, mix, flavor, and bottle distilled spirits at the licensed premises (Section 23366). He/she may export without the necessity of any further license but must hold a distilled spirits importer's license in order to import (Section 23775). Storage of distilled spirits may be made in any licensed public warehouse or a private warehouse approved by the Department (Sections 23106 & 23366). He/she may transfer title of distilled spirits stored in certain specified warehouses within the State (Section 23383). Deliveries may be made from the licensed premises or from a licensed public warehouse or approved private warehouse within the county where licensed and from a licensed public or approved private warehouse outside that county if the orders were first processed at the licensed premises before delivery (Section 23366). He/she may deal in warehouse receipts for distilled spirits (Sections 23381 & 23382). A distilled spirits manufacturer's agent may sell distilled spirits to common carrier vessels for use as ship's stores (Rule 54). This type of license does not authorize sales to military reservations (Section 23384).

Distilled spirits manufacturer's agent applicants should be cautioned relative to prohibited promotional relationships. Consumers may not be solicited in any way to purchase from a specific retailer (Section 23366.1). He/she may not solicit orders, except for California brandy, from retailers and deliver them to wholesalers or rectifiers (Section 23366.5). He/she may only sample those licensees to whom he/she is authorized to sell (Section 23386, Rule 52). His/her dealings with retailers is limited to visits for advertising and merchandising purposes only. (Section 25503.2, Rule 106).

A manufacturer's agent must keep records of sales and any other expenses incurred within the State at his/her licensed premises.

Tied-House

Tied-house prohibitions are specific as to other licenses he/she may hold. He/she may hold no interest in any distilled spirits license other than a distilled spirits importer's license and certain club-type licenses mentioned in Sections 25500 and 23772.

Section 23771 was enacted to prohibit manufacturer's agents or distilleries located within or without the State from owning distilled spirits wholesaler's and rectifier's licenses. Generally speaking, a distilled spirits manufacturer's agent or manufacturer is prohibited from having any interest in an on-sale or off-sale license (Sections 25500 & 25502). Exceptions to the general prohibitions are provided for in Sections 25503.11, 25503.16, 25503.17, 25503.18, 25503.19, 25503.20, 25503.29 and 25503.37. Subject to the restrictions of Sections 25503.10 and 25503.21, this type of licensee may lease real property to retail licensees.

When processing an application for a distilled spirits manufacturer's agent's license by a corporation, limited liability company, or limited partnership, it is necessary to complete Form ABC-140, Certification

Re Chapter 15 Tied-House Restrictions. Although our investigations of stockholders, limited liability company members, or limited partners, normally are confined to those persons holding 10% or more of the stock in a corporation or equity interest in a limited liability company or limited partnership, if a tied-house situation is discovered involving a person holding less than a 10% interest, it should be reported on. If the largest stockholder, member, or limited partner holds less than 10% of stock or equity interest, a tied-house situation in which they are involved may be grounds for denial of the application.

Premises

The type of premises will vary with the type of businesses the licensee will engage in. Nothing more than office space may be necessary if the licensee only engages in missionary work. If he/she proposes to bottle, cut, blend, etc., all the abilities of a rectifier will be needed. The type of zoning will vary with the method of operation also. Some cities will authorize this type of business to be conducted from a private residence. If a private residence or apartment is to be a licensed premises, we must have the license issued conditionally so that we may make inspections as for any other licensed business. Consult your legal staff in regard to search and seizure problems and waivers.

Other Requirements

The Board of Equalization requires a manufacturer's agent to post a surety bond. The Board will notify the applicant regarding the bond shortly after the application has been made with us. Failure to satisfy this requirement will delay/prevent issuance of the license.

STILL - TYPE 06

Introduction

The following applies to still licenses used for the making of alcoholic beverages or capable of such use. See "General Information" and "Interviewing Applicants and Processing Applications" above, for a discussion of non-retail licenses in general.

Definitions and Functions

The Act defines a still as "...any apparatus capable of being used for separating alcohol, or alcoholic vapors or solutions from alcohol or alcoholic solutions or mixtures ..." Stills used for laboratory purposes or stills used solely for producing distilled water or other non-alcoholic beverages are exempt from licensing (Section 23034). (Generally, this license is not required to produce fuel alcohol.)

Privileges and Limitations

The license only authorizes ownership or possession of an alcoholic beverage still; it does not authorize sale of the finished product or the use of the still for making alcoholic beverages or industrial alcohol.

As a practical matter, stills are used in connection with brandy manufacturer's, distilled spirits manufacturer's, rectifier's, rectifier's general, and winegrower's licenses (for the production of brandy).

Tied-House

There are no tied-house prohibitions against the holding of a still license by itself. See the restrictions of the other types of licenses held by still license holders.

Other Requirements

If an application for a still license is taken with an application for a manufacturer's, winegrower's, rectifier's, or rectifier's general license it should be on Form ABC-211. Still applications filed later/separately may be taken on Form ABC-239. There is no requirement for a posting notice with this type of license.

NOTE: Federal law requires every person having possession, custody or control of any still to register the still, except if the still is not used or intended for use in the distillation, redistillation or recovery of distilled spirits.

RECTIFIER'S - TYPE 07

Introduction

This type of license is frequently referred to as a "distilled spirits rectifier's license", which is incorrect since the license also permits the rectification of wine. See "General Information" and "Interviewing Applicants and Processing Applications" above, for a discussion of non-retail licenses in general.

Definitions and Functions

This licensee is authorized to cut, blend, rectify, mix, flavor and color distilled spirits and wine upon which excise tax has been paid and, whether rectified by the licensee or another person, to package, label, export and sell the products to persons holding licenses authorizing the sale of distilled spirits (Sections 23016 and 23368). It must be noted that this licensee may sell distilled spirits and wine without the need for any other license, but he/she may not sell wine to a person who does not hold a license that also authorizes the sale of distilled spirits.

A rectifier may also elect to function as a distilled spirits wholesaler, but when doing so, he/she must comply with all of the provisions applicable to a distilled spirits wholesaler (Section 23371).

Privileges and Limitations

A rectifier may make sales to military reservations (Section 23384). He/she may sell within this State for use without this State under the provisions of Rule 54.

A rectifier may sell industrial spirits for use in the trades, professions, or industries and not for beverage use (Section 23385).

A rectifier may distribute samples to retail licensees (Section 23386, Rule 52). A new license must be obtained for each additional premises (Section 24041).

Deliveries must be made from the licensed premises or from a warehouse licensed by this Department, which is located in the county in which he/she is licensed (Section 23355.1).

This licensee may deal in warehouse receipts (Section 23381). He/she may not keep cash deposits from retailers for future delivery of distilled spirits (Section 23780), and he/she may not store distilled spirits for a retailer.

This licensee must maintain records at his/her licensed premises of all importation, sale and distribution or distilled spirits (Section 25752). Such records shall include invoices for every sale of distilled spirits to another licensee (Rule 17).

Tied-House

All tied-house restrictions applicable to a distilled spirits wholesaler are applicable to a rectifier. (See Distilled Spirits Wholesaler Type 18.)

Premises

The site of this licensee's premises must be properly zoned for the proposed operation. Mixing, blending, bottling and packaging generally require industrial zoning. This premises must contain tanks for holding distilled spirits and must be equipped with bottling machinery.

In order to qualify for this type license, an applicant must actually be engaged in bottling at the time the license is issued or within 30 days thereafter. This license may not be renewed if the licensee is not actively engaged in bottling. The licensee must own 50% of the total distilled spirits that he/she bottles (Section 23369). An application for this type of license should be coordinated with the investigation of the Bureau of Alcohol, Tobacco and Firearms for a federal permit. That agency has specific requirements as to

equipment, security, etc.

Other Requirements

The Board of Equalization require a rectifier to post a surety bond. The Board will notify the applicant regarding the bond shortly after the application has been made with us. Failure to satisfy this requirement will delay/prevent issuance of the license.

WINE RECTIFIER - TYPE 08

Introduction

Historically, the wine rectifier's license is one in very limited use. Presently, there are no active Type 08 licenses. A rectifier's license (Type 07) includes wine rectification privileges in addition to allowing distilled spirits rectification privileges. A wine blender's license allows most of the same privileges as the wine rectifier's license. It is important to note that a wine rectifier may only deal in "tax-paid" wine, unlike a wine blender who may process "in-bond" (non-tax paid) wine. See "General Information" and "Interviewing Applicants and Processing Applications" above, for a discussion of non-retail licenses in general.

Definitions and Functions

A wine rectifier's license authorizes the person to whom issued to cut, blend, mix, flavor, or color wine upon which excise tax has been paid, and whether so cut, blended, rectified, mixed, flavored, or colored by him, or any other person, to package, label, export, and sell the products to persons holding licenses authorizing the sale of wine (Section 23372). Wine must be made from the fermentation of agricultural products to which the wine is made. No other distilled spirits may be used to fortify wine, only brandy of a specific type. No more than 15% added flavoring or blending material may be added (Section 23007).

Privileges and Limitations

A wine rectifier may exercise the privileges set forth in Section 23372. He may give samples in accordance with Section 23386 and Rule 52(a). He may not engage in winetastings (Section 23355 and Rule 53).

A wine rectifier may sell for export (Section 23372). Sales within this State for use without the State must be made in accordance with Rule 54. If a licensee requests information about exporting, it is well to advise him to check the regulations of the state into which he will ship. The regulations of the individual states vary greatly; many require the shipper to hold an importer's license or an out-of-state manufacturer's license in their state before a shipment may be made into it.

Wine rectifiers may sell to federal areas and veterans' homes in accordance with Section 23384.

While a wine rectifier may also hold importers' licenses, a beer and wine importer's license should be conditioned to permit the importation of wine only.

There are certain restrictions as to wine bottle shape and labeling of which an applicant for a wine rectifier's license should be informed (Sections 25235 to 25240).

The hours of sale and delivery by wine rectifiers to retailers are between 3 a.m. and 8 p.m. Monday through Saturday. Delivery of wine may be made at the platform of the licensed premises to on-sale or off-sale licensees at any time (Section 25633).

It is not necessary that a wine rectifier keep records of sales of wine (Section 25752). See Rule 17 for invoicing requirements.

Returns and exchanges of wine must be handled in accordance with Section 23104.1 (See P 200 for procedures.)

Tied-House

A wine rectifier may hold no interest in any off-sale or on-sale license (Section 23372). Exceptions to the general prohibitions are provided for in Sections 25503.11, 25503.16, 25503.17, 25503.18, 25503.19, 25503.20, 25503.29 and 25503.37. Subject to the restrictions of Sections 25503.10 and 25503.21, this type of licensee may lease real property to retail licensees.

The supplier-type licenses which a wine rectifier may hold are limited to a wine importer's license, a distilled spirits manufacturer's license, or a distilled spirits manufacturer's agent's license (Sections 23355 and 23372).

When processing an application for a wine rectifier's license by a corporation, limited liability company, or limited partnership, it is necessary to complete Form ABC-140, Certification Re Chapter 15 Tied-House Restrictions. Although our investigations of stockholders, limited liability company members, or limited partners, normally are confined to those persons holding 10% or more of the stock in a corporation or equity interest in a limited liability company or limited partnership, if a tied-house situation is discovered involving a person holding less than a 10% interest, it should be reported on. If the largest stockholder, member, or limited partner holds less than 10% of stock or equity interest, a tied-house situation in which they are involved may be grounds for denial of the application.

Premises

As with other types of license applications, we should check for proper zoning with the applicable local authorities. An area zoned for business may not be the correct zoning for a wine rectification plant. Even manufacturing districts may have restrictions against certain types of businesses.

Importations of wine must come to rest at the wine rectifier's premises or the premises of a public warehouse licensee for the account of the wine rectifier who holds an importer's license (Section 23661). Deliveries of wine sold by a wine rectifier must be made only from his/her licensed premises (Section 23355).

Tax-paid wine may be stored any place in the State without the need for a private warehouse permit (Section 23106). A retailer is restricted from storing on the premises of a wine rectifier.

The equipment required by the Bureau of Alcohol, Tobacco and Firearms for this type of license will satisfy the requirements of the Department.

Other Requirements

A wine rectifier is not required to post a surety bond with the Board of Equalization because he/she is only authorized to handle tax-paid wine.

BEER AND WINE IMPORTER - TYPE 09

Introduction

This license is only issued to a person who holds another type of license which permits the sale of beer and wine for resale. See "General Information" and "Interviewing Applicants and Processing Applications" above, for a discussion of non-retail licenses in general.

Definitions and Functions

An importer is defined as any consignee of alcoholic beverages brought into the State for use in this State, or any person to whom delivery of an importation is made, or any person bringing alcoholic beverages into this State for use in this State (Section 23017). This license has no sale privileges. It only permits the holder to import and export alcoholic beverages and to transfer the beverages to him/herself under another license (Section 23374).

Privileges and Limitations

This license may only be issued to a person or manufacturer who holds a license authorizing the sale for resale of the type of alcoholic beverages mentioned in the license (Section 23775).

The U.S. postal authorities will not permit the importation of alcoholic beverages via postal service (Section 23660).

All importations of alcoholic beverages must be brought into this State by a common carrier and must be consigned to the importer at his/her licensed premises, or to the importer or customs broker at the premises of a public warehouse licensed by this Department (Section 23661).

This licensee may have an importation of beer or wine reconsigned to him/her by the consignor or consignee while the shipment is still in the possession of the common carrier (Section 23662).

An importer upon receiving an importation of beer or wine must show his/her license to the common carrier and must furnish the common carrier with a receipt for the imported shipment (Section 23667, Rule 8). Refusal to comply with the above shall result in seizure of the importation by the State (Section 23668).

Tied-House

This license, in general, has the same tied-house restrictions as all other supplier-type licenses. However, a winegrower who holds an off-sale general license may not hold an importer's license because of the provisions of Section 25502.

Premises

The premises requirements are those of the other supplier-type licenses which the licensee must hold.

Other Requirements

An application for this type of license, if made after the applicant is already a licensee with a license permitting the sale of beer or wine for resale, may be submitted on a Form ABC-239 (P 91). If the application is made at the same time as the application for the other license, the reports for both should be made on the same Form ABC-220.

No posting of the premises is necessary if only an application for this type of license is made.

The Board of Equalization requires an importer to post a surety bond. The Board will notify the applicant regarding the bond shortly after the application has been made with us. Failure to satisfy this requirement will delay/prevent issuance of the license.

Applicants who intend to import beer must be apprised of the provisions of Section 23671 which requires all out-of-state vendors of beer to hold a Certificate of Compliance. Additionally, if the beer to be imported is manufactured by a domestic brewery, which does not also manufacture beer in California, that manufacturer must hold an Out-of-State Beer Manufacturer's Certificate. (Section 23357.1, Rule 132) The Department must approve the labels for malt beverage products prior to importation into this State. (Section 25200, Rule 130) Form ABC-412, Label Approval Application, is used for this purpose (Illustration No. 3).

BEER AND WINE IMPORTER'S GENERAL - TYPE 10

Introduction

This type of license is one frequently issued to agents for out-of-state breweries or wineries who refer to themselves as "brokers". Such agents differ greatly from true brokers as is shown in the functions they perform. This license should also be held by companies representing manufacturers/suppliers where such companies have a physical marketing presence in California. This presence may consist of a regional sales office or one person/employee working out of his/her home while performing general missionary work. Another common situation requiring the holding of this license is where an out-of-state vendor imports beer or wine in its own name and uses the services of a licensed public warehouse for importation, storage and distribution of beer and wine to authorized licensees. See "General Information" and "Interviewing Applicants and Processing Applications" above, for a discussion of non-retail licenses in general.

Definitions and Functions

Section 23374.6 authorizes the person to whom this license is issued to become an importer of beer or wine and to sell State tax-paid beer and wine to beer manufacturers, winegrowers, beer and wine wholesalers, wine rectifiers, and other beer and wine importer's general licensees.

Section 23006 defines "beer" as "any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any similar product, or any combination thereof in water". The definition also includes ale, stout, lager beer, porter, brown, small beer and strong beer.

Section 23007 defines "wine" as any "product obtained from normal alcoholic fermentation of the juice of sound, ripe grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage to which is added grape brandy, fruit brandy, or spirits of wine, which is distilled from the particular agricultural product or products of which the wine is made and other rectified wine products and by whatever name and which does not contain more than 15% added flavoring, coloring, and blending material and which contains not more than 24% of alcohol by volume". (Emphasis added.)

Privileges and Limitations

A beer and wine importer's general licensee may not sell to retailers or non-licensees. He/she may not sell to military reservations since this license type is not included in Section 23384. He/she may deal in warehouse receipts. He/she need not take delivery of any alcoholic beverages but may take orders and have shipments made to importers directly from outside California. He/she may export.

He/she may give samples in accordance with Section 23386 and Rule 52(a), but may not conduct winetastings (Rule 53).

If licensee actually warehouses alcoholic beverages, he/she is not restricted as to hours or days of delivery since he/she does not sell to retailers (Section 25633).

Sales records and records of all expenditures incurred in the sale and distribution of beer must be maintained at the licensed premises (Section 25752).

Tied-House

In general, a beer and wine importer's general licensee may not have an interest, directly or indirectly, in any on-sale license or off-sale general license (Sections 25500 & 25502). A beer and wine importer's general licensee may hold a retail package off-sale beer and wine license provided that the importer sells wine and no other alcoholic beverages at or from the retail premises (Section 23378.2). Certain exceptions are provided for in Sections 25503.11, 25503.16, 25503.17, 25503.18, 25503.19, 25503.20, 25503.29 and 25503.37. Subject to the restrictions of Sections 25503.10 and 25503.21, this type of licensee may lease

real property to retail licensees. There is no prohibition against a beer and wine importer's general licensee holding any other supplier-type license. If this licensee applies for a Type 17 license, the Type 10 license should be relinquished and a Type 09 license obtained to avoid paying a double fee.

When processing an application for a beer and wine importer's general license by a corporation, limited liability company, or limited partnership, it is necessary to complete Form ABC-140, Certification Re Chapter 15 Tied-House Restrictions. Although our investigations of stockholders, limited liability company members, or limited partners, normally are confined to those persons holding 10% or more of the stock in a corporation or equity interest in a limited liability company or limited partnership, if a tied-house situation is discovered involving a person holding less than a 10% interest, it should be reported on. If the largest stockholder, member, or limited partner holds less than 10% of stock or equity interest, a tied-house situation in which they are involved may be grounds for denial of the application.

Premises

As with other types of license applications, we should check for proper zoning for this type of business. In some jurisdictions a beer and wine importer's general licensee may operate out of licensee's own home unless he/she warehouses merchandise. If handling merchandise, he/she will frequently rent office space in a licensed public warehouse.

If a private residence or an apartment is to be a licensed premises, we must have the license issued conditionally so that we may make inspections as for any other licensed business; consult legal staff in regard to search and seizure problems and waivers.

Other Requirements

The Board of Equalization requires a beer and wine importer's general licensee to post surety bond. The Board will notify the applicant regarding the bond shortly after the application has been made with us. Failure to satisfy this requirement will delay/prevent issuance of the license.

A beer and wine importer's general licensee must file prices for beer sold to wholesalers and importers. (Section 25000). Beer labels must be approved by the Department prior to importation of the products into this State (Section 25200; Rule 130). Form ABC-412, Label Approval Application, is used for this purpose (Illustration No. 3). If the applicant intends to import a brand of beer not currently sold in California, he/she should be advised that the shipper must have a certificate of compliance before making shipments into this State. An Out-of-State Beer Manufacturer's Certificate is required by breweries in the United States who do not manufacture beer in California (Section 23357.1, Rule 132, P 203). The applicant should be given Form ABC-578 which sets forth these requirements and provides other useful information. Check the box on the Form ABC-257-NR that this informational packet was furnished to the applicant.

BRANDY IMPORTER - TYPE 11

Introduction

This license is only issued to a person who holds another type of license which permits the sale of brandy for resale. It, however, may not be issued to a California Brandy Wholesaler. (Section 23378.1) See "General Information" and "Interviewing Applicants and Processing Applications" above, for a discussion of non-retail licenses in general.

Definitions and Functions

Brandy is included in the definition of distilled spirits (Section 23005). Brandy is an alcoholic beverage distilled from wine or fermented fruit juices.

An importer means:

- (1) Any consignee of alcoholic beverages brought into the State from without this State, when the alcoholic beverages are for delivery or use within the State.
- (2) Any person, except a public warehouse licensed under this division, to whom delivery is first made in this State of alcoholic beverages brought into this State from without this State for delivery or use within this State.
- (3) Any person, licensed as an importer, selling alcoholic beverages to non-licensees within an area over which the United States Government exercises jurisdiction, when delivery of the alcoholic beverages is made to the non-licensees by a common carrier transporting the alcoholic beverages from a point outside this State.
- (4) Any person bringing alcoholic beverages into this State from without this State which are not consigned to any person and which are for delivery or use within this State (Section 23017).

Privileges and Limitations

A brandy importer's license authorizes the holder to become an importer of brandy only, to export the brandy, and to transfer the beverages to himself under another license (Section 23374).

Section 23775 authorizes issuance of an importer's license only to a person or manufacturer who holds a license authorizing the sale for resale of the types of alcoholic beverages mentioned in the importer's license. This license cannot be held alone.

This license is usually issued to the holder of a brandy manufacturer's license and less frequently to a winegrower.

The U.S. postal authorities will not permit the importation of alcoholic beverages via postal service (Section 23660).

All importations of alcoholic beverages must be brought into this State by a common carrier and must be consigned to the importer at his licensed premises or to the importer or customs broker at the premises of a public warehouse licensed by this Department (Section 23661).

This licensee may have an importation of brandy reconsigned to him/her by the consignor or consignee while the shipment is still in the possession of the common carrier (Section 23662).

An importer upon receiving an importation of distilled spirits must show his/her license to the common carrier and must furnish the common carrier with a receipt for the imported shipment (Section 23667; Rule 8). Refusal to comply with the above shall result in seizure of the importation by the State (Section 23668).

Such importation must come to rest at the importer's premises or the premises of an authorized warehouse before delivery is made to a retailer (Section 23672).

Tied-House

This license, in general, has the same tied-house restrictions as the other supplier-type licenses which the licensee must have. However, a winegrower or brandy manufacturer who holds an off-sale general license may not hold an importer's license because of the provisions of Section 25502.

Premises

The premises requirements are the same as for the other supplier-type licenses which the licensee must hold.

Other Requirements

An application for this type of license may be made on a Form ABC-239, Correction/Application Request

(Illustration No. 2) if the applicant already holds a license permitting the sale of brandy for resale. If the application is made at the same time as the application for the other license, the reports for both should be made on a Form ABC-220.

No posting of the premises is necessary if only an application for a brandy importer's license is involved.

The Board of Equalization requires an importer to post a surety bond. The Board will notify the applicant regarding the bond shortly after the application has been made with us. Failure to satisfy this requirement will delay/prevent issuance of the license.

DISTILLED SPIRITS IMPORTER - TYPE 12

Introduction

This license is only issued to a licensee who has another type of non-retail distilled spirits license. See "General Information" and "Interviewing Applicants and Processing Applications" above, for a discussion of non-retail licenses in general.

Definitions and Functions

An importer is defined as any consignee of alcoholic beverages brought into this State for use in this State, or any person to whom delivery of an importation is made, or any person bringing alcoholic beverages into the State for use in this State (Section 23017). This license has no sale privileges. It only permits the holder to import and export alcoholic beverages, and to transfer the beverages to him/her under another license (Section 23374).

Privileges and Limitations

This license may only be issued to a person or manufacturer who holds a license authorizing the sale for resale of the type of alcoholic beverages mentioned in the license (Section 23775).

The U. S. postal authorities will not permit the importation of alcoholic beverages via postal service (Section 23660).

All importations of alcoholic beverages must be brought into this State by a common carrier and must be consigned to the importer at his/her licensed premises or to the importer or customs broker at the premises of a public warehouse licensed by this Department (Section 23661).

This licensee may have an importation of distilled spirits reconsigned to him/her by the consignor or consignee while the shipment is still in the possession of the common carrier (Section 23662).

An importer upon receiving an importation of distilled spirits must show his/her license to the common carrier and must furnish the common carrier with a receipt for the imported shipment (Section 23667, Rule 8). Refusal to comply with the above shall result in the forfeiture of the distilled spirits to the State (Section 23668).

Distilled spirits imported into this State must come to rest at the importer's premises or the premises of an authorized warehouse before delivery is made to a retailer (Section 23672).

Tied House

This license, in general, has the same tied-house restrictions as the other distilled spirits licenses which the license holder must also have. However, the exceptions in Section 25507, which permit a winegrower to hold various distilled spirits licenses and off-sale general licenses in accordance with Section 23362, do not include importer's licenses. Section 25502 does not permit an importer to hold any interest in an off-sale general license.

Premises

The premises requirements are the same as for the other type of license(s) which the licensee must hold.

Other Requirements

An application for this type of license, if made after the applicant has been issued another supplier-type distilled spirits license, may be submitted on a Form ABC-239, Correction/Application Request (Illustration No. 2). If the application is made at the same time as the application for another type of distilled spirits license, both should be reported on the same Form ABC-220.

January 30, 2002

If an application for this type of license is made by the current holder of a distilled spirits license, no posting of the premises is necessary.

The Board of Equalization requires a distilled spirits importer to post a surety bond. The Board will notify the applicant regarding the bond shortly after the application has been made with us. Failure to satisfy this requirement will delay/prevent issuance of the license.

It is the responsibility of the District Office to properly inform applicants for distilled spirits importer licenses of the provisions of Sections 23366.2 and 23366.3 which require all out-of-state shippers of distilled spirits to hold an Out-of-State Distilled Spirits Shipper's certificate. The applicant should be given Forms ABC-413 and -414 and the box checked on the ABC-257-NR report that this informational packet was provided to the applicant.

DISTILLED SPIRITS IMPORTER'S GENERAL - TYPE 13

Introduction

This type of license is one most frequently issued to agents for out-of-state rectifiers, distilleries, or nation-wide import companies. Such agents differ greatly from true brokers as is shown in the functions they perform. This license should also be held by companies representing manufacturers/suppliers where such companies have a physical marketing presence in California. This presence may consist of a regional sales office or one person/employee working out of his/her home while performing general missionary work. Another situation requiring the holding of this license is where an out-of-state vendor imports distilled spirits in its own name and uses the services of a licensed public warehouse for importation, storage and distribution of distilled spirits to authorized licensees. See "General Information" and "Interviewing Applicants and Processing Applications" above, for a discussion on non-retail licenses in general.

Definitions and Functions

A distilled spirits importer's general license authorizes the person to whom issued to become an importer of distilled spirits and to sell distilled spirits to distilled spirits manufacturers, distilled spirits manufacturer's agents, distilled spirits wholesalers, rectifiers and distilled spirits general importers (Section 23374.5).

Section 23005 defines distilled spirits as an alcoholic beverage obtained by the distillation of fermented agricultural products and includes alcohol for beverage use, spirits of wine, whiskey, rum, brandy, and gin, including all dilutions and mixtures thereof.

Privileges and Limitations

A distilled spirits importer's general licensee may not sell to retailers or non-licensed persons. He/she may not sell to military reservations since he/she is not included in Section 23384. He/she may deal in warehouse receipts. He/she need not take delivery of spirits but may take orders and have shipments made to importers directly from outside California. He/she may export.

He/she may give samples in accordance with Section 23386 and Rule 52(a).

If licensee actually warehouses alcoholic beverages, he/she is not restricted as to hours or days of delivery since no sales are made to retailers (Section 25633).

Sales records and records of all expenditures incurred in the sale and distribution of distilled spirits must be maintained at the licensed premises (Section 25752).

The holder of this license may conduct courses of instruction for licensees and their employees on the subject of distilled spirits including, but not limited to, the history, nature, values, and characteristics of distilled spirits. He/she may furnish distilled spirits and such equipment, materials, and utensils as may be required for use in connection with such instruction or courses of instruction. This instruction may be given at his/her premises or at the premises of another licensee, including an on-sale retail licensee, or elsewhere (Section 25503.5).

It is the responsibility of the District Office to properly inform applicants for distilled spirits importer's general licenses of the provisions of Sections 23366.2 and 23366.3 which require all out-of-state shippers of distilled spirits to hold an Out-of-State Distilled Spirits Shipper's certificate. The applicant should be given Forms ABC-413 and -414 and the box checked on Form ABC-257-NR that this informational packet was provided to the applicant.

Tied-House

Generally, this type of license cannot be issued to any person who holds an interest, directly or indirectly, in an on-sale or off-sale general license (Section 23375.5). Exceptions to this general prohibition are contained in Sections 25503.11, 25503.16, 25503.17, 25503.18, 25503.19, 25503.20, 25503.29 and 25503.37. Subject to the restrictions of Sections 25503.10 and 25503.21, this type of licensee may lease

real property to retail licensees. Such a person could hold an off-sale beer and wine license unless he/she holds another type of license which forbids such ownership.

A holder of this license may not hold an interest, either directly or indirectly, in a distilled spirits manufacturer's license or a distilled spirits manufacturer's agent's license (Section 23771).

When processing an application for a distilled spirits importer's general license by a corporation, limited liability company, or limited partnership, it is necessary to complete Form ABC-140, Certification Re Chapter 15 Tied-House Restrictions. Although our investigations of stockholders, limited liability company members, or limited partners, normally are confined to those persons holding 10% or more of the stock in a corporation or equity interest in a limited liability company or limited partnership, if a tied-house situation is discovered involving a person holding less than a 10% interest, it should be reported on. If the largest stockholder, member, or limited partner holds less than 10% of stock or equity interest, a tied-house situation in which they are involved may be grounds for denial of the application.

Premises

As with other types of licenses, we should check for proper zoning for this type of business. In some jurisdictions an importer's general licensee may operate out of his/her own residence unless he/she warehouses merchandise. If licensee handles merchandise, frequently office space in a licensed public warehouse will be rented.

If a private residence or an apartment is to be a licensed premises, we must have the license issued conditionally so that we may make inspections as for any other licensed business; consult your legal staff in regard to search and seizure problems and waivers.

Other Requirements

The Board of Equalization requires a distilled spirits importer's general licensee to post a surety bond. The Board will notify the applicant regarding the bond shortly after the application has been made with us. Failure to satisfy this requirement will delay/prevent issuance of the license.

PUBLIC WAREHOUSE - TYPE 14

Introduction

A public warehouse license is required for a warehouseman who provides warehouse service for alcoholic beverage licensees. This is distinguished from our private warehouse permits. With the latter, a licensee has a leasehold or ownership interest and provides his/her own help at a premises other than that where licensed.

Definitions and Functions

The Act defines a public warehouse as "...any place licensed for the storage of, but not for sale of, alcohol, or alcoholic beverages, for the account of other licensees..." (Sections 23036 and 23375).

A public warehouse is one of the types of premises to which imports may come to rest (Section 23661). It is also one of the types of premises from which a distilled spirits wholesaler may make deliveries if it is in the county where he/she is licensed (Section 23355.1)

Privileges and Limitations

Since a public warehouse license does not entitle the holder to make sales, it does not require a posting notice. The application may be processed on an ABC-239, Correction/Application Request. Duplicate licenses may be processed in a similar manner.

Tied-House

No tied-house prohibitions apply to this license.

Premises

The investigator should check the local zoning laws when he/she has an application for this type of license.

Other Requirements

No Federal Basic Permit is required but federal approval is necessary if the applicant also intends to become a U.S. Customs Bonded or I.R.S. Bonded warehouse.

CUSTOMS BROKER - TYPE 15

Introduction

This type of licensee will generally be located near the dock area in seaports or at international airports. He is also frequently located in port cities in building where many foreign consulates or commercial attaches have their offices, See "General Information" and "Interviewing Applicants and Processing Applications" above, for a discussion of non-retail licenses in general.

Special Note

This Department has taken the position that where a customs broker makes either entry or withdrawal in his own name, is identified as the responsible person and has a possessory right, the possibility of unlawful diversion into the internal commerce of the State exists. Under these circumstances, we believe he/she should be subject to State control and, therefore, licensed. On the other hand, if the customs broker is solely engaged as an agent for licensed importers and if all entries and/or withdrawal documents disclose the licensed importer as the principal, he/she need not be licensed by this Department. However, we strongly suggest that such persons apply for and hold Type 15 licenses to permit the flexibility needed to handle unforeseen special circumstances requiring licensure.

Definitions and Functions

"Customs broker" means every person who is authorized to act as agent or broker for a person licensed as an importer of for a person whose place of business is without the State, in regard to the importing of alcoholic beverages into the State in United States Internal Revenue bond or in United States Customs bond. (Section 23019).

The principal function of a customs broker is handling the paperwork and paying the duty on behalf of his principals on imported merchandise.

Privileges and Limitations

This license authorizes the transfer to licensed importers of alcoholic beverages brought in this State in U.S. Internal Revenue bond or Customs bond and the exportation of the beverages. The holder may receive delivery of, possess, export and transfer such beverages to licensed importers.

This license also authorizes the possession and exportation of alcoholic beverages acquired from licensed manufacturers or winegrowers for export (Section 23376). A customs broker is required to show his license and issue a receipt to any common carrier delivering an importation of alcoholic beverages to him as a consignee at an authorized warehouse (Section 23667). Failure to comply with the above shall result in forfeiture of the shipment. (Section 23668)

When a customs broker makes a withdrawal in his own name, and such withdrawal is not for transfer to a licensed importer, the customs broker must also hold an importer's license.

Tied-House

This licensee's activities are directly related to importers. Importers are classified as suppliers. Therefore, a tied-house situation would exist if a customs broker also held a retail license since suppliers are prohibited from giving money or other things of value (i.e., payments for broker services rendered) to retail licensees (Sections 25500 and 25502).

Premises

The site of the premises must be zoned for business. The premises will generally consist of office space only. Warehouse space is not required. Posting of Public Notice of Application to Sell Alcoholic Beverages is not required, as this license contains no sales privileges (Rule 109). Some customs brokers will also hold a public warehouse license and operate a customs bonded warehouse. If such is the case, the

premises must, of course, comply with the requirements of that type of license too.

Other Requirements

The Board of Equalization requires a customs broker to post a surety bond. the Board will notify the applicant regarding the bond shortly after the application has been made with us. Failure to satisfy this requirement will delay/prevent issuance of the license.

WINE BROKER - TYPE 16

Introduction

A wine broker is an independent contractor who acts as the agent in the sale of wine products. Typically, wine broker's services are contracted by smaller wineries and wholesalers who cannot maintain their own in-house marketing representatives. See "General Information" and "Interviewing Applicants and Processing Applications" above, for a discussion of non-retail licenses in general.

Definitions and Functions

A wine broker means every person, other than a salesman who is regularly employed by a licensee, who engages as an agent in the sale or purchase of wine for or on behalf of another or others for a fee or commission (Section 23020).

Privileges and Limitations

A wine broker may act in the purchase of wine on behalf of any person within or without the State authorized to buy wine for purposes of resale. He/she may act for any licensee in this State in the sale of wine, other than a retail licensee. A wine broker cannot act for a non-licensee in the sale of wine; the seller must be licensed in California before a wine broker may represent him/her (Section 23377).

A wine broker cannot buy or sell wine for his/her own account, take delivery or title to wine, or receive or store any wine in his/her own name in this State (Section 23377). He/she may not import or export in his/her own name.

A wine broker is not authorized to furnish samples of wine or conduct winetastings (Rules 52 and 53).

A wine broker shall not sell or attempt to sell wine without first obtaining a bona fide authorization to do so from a person, other than a retail licensee, licensed to sell wine in this State (Section 23377).

A wine broker shall not buy or attempt to buy wine unless he/she first has a bona fide offer to do so from a person within or without this State authorized to buy wine for resale (Section 23377).

It is not necessary that a wine broker keep records of his/her transactions involving the sale of wine.

Tied-House

This licensee's activities are usually directly related to supplier-type licensees. Therefore, a tied-house situation would exist if a wine broker also held a retail license since suppliers are prohibited from giving money or other things of value (i.e., payment for broker services rendered) to retail licensees (Sections 25500 and 25502).

Premises

As with other types of license applications, we should check for proper zoning with the applicable zoning authorities. In some jurisdictions, a wine broker may be permitted to operate out of his/her own residence.

Other Requirements

A wine broker is not required to post a surety bond with the Board of Equalization since he/she does not handle wine or sell it in his/her own name.

BEER AND WINE WHOLESALER - TYPE 17

Introduction

The following pertains to beer and wine wholesalers generally. See "General Information" and "Interview Applicants and Processing Applications" above, for a discussion of non-retail licenses in general.

Definitions and Functions

"Wholesale sale" means a sale of beer and/or wine to any licensee for the purpose of resale (Section 23027). This permits incidental sales to other supplier-type licensees. However, to qualify as a bona fide wholesaler, a licensee must sell to retailers generally (Section 23779).

Privileges and Limitations

In addition to sales to other licensees for the purpose of resale, this license also authorizes the exportation of beer and wine and prohibits sales to non-licensees (Section 23378). He/she may sell and deliver beer and wine to unlicensed persons within this State for use without the State, provided that the beverages leave the State within 90 days of the date of the sale (Sections 23107 and 23387, Rules 17(d) and 54). He/she may also sell and deliver beer and/or wine to non-licensees on federal reservations (Section 23384). He/she may elect to handle beer only, wine only, or both.

This type of license authorizes the holder to label, package and bottle wine, but not beer (Section 23379). The holder may also solicit orders for California wine on behalf of a licensee for sales to other licensees (Section 23366.5).

This licensee may deal in warehouse receipts (Section 23381). He/she may distribute samples of beer and wine to licensees pursuant to Section 23386 and Rule 52(a).

This licensee must maintain records at his/her licensed premises of all importations, sales and distributions of beer (Section 25752). He/she must also maintain invoice records of all sales of beer and wine to other licensees (Rule 17).

He/she is permitted to give instructions to retailers and their employees on the subject of beer and wine as provided by Section 25503.5 and may service products he/she sells in retail premises as set forth in Section 25503.2.

He/she may also accept the return of beer and wine from retail licensees (Sections 23104.1 and 23104.2; P 200).

Tied-House

In general, a beer and wine wholesaler may not have an interest, directly or indirectly, in any on-sale or off-sale general license (Sections 25500 and 25502). A beer and wine wholesaler may hold an off-sale beer and wine license so long as wine is the only alcoholic beverage sold under the Type 20 license - (Section 23378.2). Section 23776 permits a Type 20 licensee who held a wholesaler's license on December 31, 1987, to continue to hold those licenses in combination so long as the wholesaler's license is restricted to the sale of wine only. Alternatively, such licensees may elect to restrict their retail license to the sale of wine only in the same manner as new applicants for both licenses. No license conditions expressing these restrictions are required. However, applicants for new Type 17 and 20 licenses must be apprised of the restrictions and acknowledge receipt of a copy of Section 23378.2 on form ABC-203 (Illustration No. 4). The ABC-220 report shall reference the acknowledgment.

Other exceptions to the general tied-house prohibitions, restricting ownership interests in retail licenses are contained in Sections 25503.11, 25503.16, 25503.17, 25503.18, 25503.19, 25503.20, 25503.22, 25503.29 and 25503.37. Subject to the restrictions of Sections 25503.10 and 25503.21, this type of licensee may lease real property to retail licensees.

He may not give or furnish any signs, fixtures, displays, etc., to any retail licensee except as provided by Sections 25611.1 (signs and advertisements), 25503.1 (displays and decorative material), 25504 (tapping accessories), 25504.5 (cleaning of tapping equipment) and 25510 (tapping equipment).

An additional exception also permits a beer and wine wholesaler to manufacture, distribute and sell any lawful product to the holder of a retail license [Section 25503.1(b)] provided the product is sold at the current market price.

The tied-house restrictions do not apply to the financial or representative relationship between the licensee and a person holding an on-sale license for a bona fide club, other clubs listed in Chapter 3 of the ABC Act, veteran's club, boats, trains, sleeping cars or airplanes where alcoholic beverages sold by the licensee are not sold, given or furnished, directly or indirectly, to the retail licensee [Section 25500 (c)].

When processing an application for a beer and wine wholesaler's license by a corporation, limited liability company, or limited partnership, it is necessary to complete Form ABC-140, Certification Re Chapter 15 Tied-House Restrictions. Although our investigations of stockholders, limited liability company members, or limited partners, normally are confined to those persons holding 10% or more of the stock in a corporation or equity interest in a limited liability company or limited partnership, if a tied-house situation is discovered involving a person holding less than a 10% interest, it should be reported on. If the largest stockholder, member, or limited partner holds less than 10% of stock or equity interest, a tied-house situation in which they are involved may be grounds for denial of the application.

Premises

The site of the premises must be properly zoned to permit dealing in alcoholic beverages. As a general rule, the premises should contain warehouse space for storage. A railroad spur may be needed by the licensee, but is not a requirement of this Department.

The premises could consist of office space alone if the applicant elects to store his/her beverages in a warehouse. Tax-paid beer and wine may be stored anywhere in the State without a license by the person furnishing or providing the storage space or any additional license or permit by the licensee (Section 23106).

If deliveries of beer and wine are made from this storage facility, an additional beer and wine wholesaler license is required.

Beer may be sold from trucks operated by the licensee (Section 23388).

Orders taken under Section 23366.5 as agent for a winegrower must be delivered from the winegrower's premises.

Price Posting

A beer wholesaler must file prices for beer sold to retailers (Section 25000) and must have a territorial agreement with the manufacturer or brand owner prior to selling beer in this State (Section 25000.5). Territorial agreements and price schedules must be filed with Department Headquarters. Beer labels must be approved by the Department prior to marketing the product(s) in California. The California Department of Conservation, Division of Recycling also has specific requirements concerning malt beverage container labeling as mandated by the Beverage Container Recycling and Litter Reduction Act. Applicants should be referred to the Division of Recycling for additional information.

It is the responsibility of the District Office to properly inform applicants for a beer wholesaler's license of the price posting/territorial agreement and labeling requirements. The applicant should be given Form ABC-578 which sets forth these requirements and provides other useful information. Check the box on Form ABC-257-NR that this informational packet was provided to the applicant.

Other Requirements

This type of license does not require that a surety bond be posted with the Board of Equalization. If a beer and wine wholesaler applies for an importer's license, he/she will have to post such a bond.

Special Note

The Department is not required to reinvestigate the personal qualifications of a beer and wine wholesaler who applies for an additional license of that type (Section 23958.1).

DISTILLED SPIRITS WHOLESALER - TYPE 18

Introduction

The following pertains to distilled spirits wholesalers generally. However, specific mention will be made of certain "grandfather" privileges with regard to tied-house situations and in regard to sales of merchandise other than alcoholic beverages. See "General Information" and "Interviewing Applicants and Processing Applications" above, for a discussion of non-retail licenses in general.

Definitions and Functions

"Wholesale sale" means a sale of distilled spirits to any licensee for the purpose of resale (Section 23027). This permits incidental sales to other supplier-type licensees. However, to qualify as a bona fide wholesaler, a licensee must sell to retailers generally (Section 23779, Rule 28).

Privileges and Limitations

In addition to sales to other licensees for the purpose of resale, this license also authorizes the exportation of distilled spirits and prohibits sales to non-licensees (Section 23378). However, this licensee may sell and deliver distilled spirits to unlicensed persons within this State for use without the State, provided that the distilled spirits leave the State within 90 days of the date of the sale (Sections 23107 and 23387, Rules 17(d) and 54). This licensee may also sell and deliver distilled spirits to non-licensees on federal reservations (Section 23384).

Deliveries to retailers are prohibited on Sundays. On all other days deliveries must be made between 3:00 a.m. and 8:00 p.m. (Section 25633).

This licensee may deal in warehouse receipts (Section 23381). He/she may not keep cash deposits from retailers for future deliveries of distilled spirits (Section 23780) and may not store distilled spirits for a retailer.

This licensee is permitted to distribute samples to retailers (Section 23386 and Rule 52(a)). He/she may not exercise the instructional privileges contained in Section 25503.5.

This licensee must maintain records at his/her licensed premises of the importation, sale and distribution of all distilled spirits (Section 25752). Such records shall include invoices for every sale of distilled spirits to another licensee (Rule 17).

He/she may accept the return of distilled spirits from retail licensees (Section 23104; P 200).

Under the provisions of Section 25503.1(b), he/she may sell or rent any lawful product to retail licensees provided such product is sold or rented at the current market price.

He/she is permitted to furnish retailers with advertisement, promotional material and displays, all of which are limited by law (Section 25503.1, 25611.1; Rule 106).

He/she is permitted to service the brands of distilled spirits that he/she sells to retailers (Section 25503.2).

Tied-House

This licensee may not hold any interest in a distilled spirits manufacturer's or distilled spirits manufacturer's agent's license (Section 23772). In general, he/she is also prohibited from holding an interest in any retail on-sale license (Section 25500) or any off-sale general license (Section 25502). A distilled spirits wholesaler may hold an off-sale beer and wine license provided that the wholesaler sells wine and no other

alcoholic beverages at or from the retail premises (Section 23378.2). Other exceptions to the general tied-house prohibitions restricting ownership interests in retail licenses are contained in Sections 25503.11, 25503.16, 25503.17, 25503.18, 25503.19, 25503.20, 25503.22, 25503.29 and 25503.37. Subject to the restrictions of Sections 25503.10 and 25503.21, this type of licensee may lease real property to retail licensees.

The tied-house restrictions do not apply to the financial or representative relationship between the licensee and a person holding an on-sale license for a bona fide club, other clubs listed in Chapter 3 of the ABC Act, veterans' clubs or boats, trains, sleeping cars and airplanes where alcoholic beverages sold by the wholesaler are not sold, given or furnished, directly or indirectly, to the retailer. [Section 25500(c)]

An off-sale general license may be renewed or issued to a distilled spirits wholesaler in cities having populations of less than 50,000 by the 1940 federal census (Section 23777).

An on-sale license may be issued to a distilled spirits wholesaler in counties having a population of 15,000 or less (Sections 23776 and 23784).

When processing an application for a distilled spirits wholesaler's license by a corporation, limited liability company, or limited partnership, it is necessary to complete Form ABC-140, Certification Re Chapter 15 Tied-House Restrictions. Although our investigations of stockholders, limited liability company members, or limited partners, normally are confined to those persons holding 10% or more of the stock in a corporation or equity interest in a limited liability company or limited partnership, if a tied-house situation is discovered involving a person holding less than a 10% interest, it should be reported on. If the largest stockholder, member, or limited partner holds less than 10% of stock or equity interest, a tied-house situation in which they are involved may be grounds for denial of the application.

Premises

The site of the premises must be properly zoned to permit dealing in alcoholic beverages. The premises must have warehouse space large enough to maintain a reasonable stock of distilled spirits. However, the licensed premises may consist of office space alone when the licensee has leased space in a warehouse licensed by this Department and such space is sufficient to store 10% of his/her annual case volume or \$100,000 worth of distilled spirits (Rules 28 and 76).

A new license must be obtained for each additional premises (Section 24041), and newly issued licenses must be put into use within 30 days (Section 24040).

Deliveries must be made from the licensed premises or from a warehouse licensed by this Department in the county in which he/she is licensed (Section 23355.1).

Other Requirements

The Board of Equalization requires a distilled spirits wholesaler to post a surety bond. The Board will notify the applicant regarding the bond shortly after the application has been made with us. Failure to satisfy this requirement will delay/prevent issuance of the license.

INDUSTRIAL ALCOHOL DEALER - TYPE 19

Introduction

An industrial alcohol dealer sells alcohol for use in the trades, professions, and industries, but not for beverage use. He/she may sell to non-licensees only if they have a use permit issued by the Bureau of Alcohol, Tobacco, and Firearms. See "General Information" and "Interviewing Applicants and Processing Applications" above, for a discussion of non-retail licenses in general.

Definitions and Functions

Section 23022 defines an industrial alcohol dealer as one who sells alcohol or distilled spirits in packages of more than one gallon for use in the trades, professions, or industries, but not for beverage use. Section 23380 authorizes a dealer to sell undenatured ethyl alcohol in packages of more than one gallon for use in the trades, professions, or industries and not for beverage consumption. It also authorizes the importation and exportation of undenatured ethyl alcohol. Undenatured ethyl alcohol is alcohol that is fit for beverage purposes as differentiated from denature alcohol which is not fit for beverage purposes.

Privileges and Limitations

An industrial alcohol dealer may sell to off-sale licensees which are also pharmacies for use in prescriptions.

There are no State requirements regarding storage facilities on the premises. An industrial alcohol dealer may make deliveries at any time except to retail licensees. It is to be noted that an industrial alcohol dealer usually sells to non-licensees, and these sales do not come within the provisions of Section 25633.

Tied-House

An industrial alcohol dealer may hold an off-sale general license if he/she does not manufacture or import (Section 25502). He/she may also hold an off-sale beer and wine license. An industrial alcohol dealer may hold an on-sale license if he/she does not manufacture or import (Section 25500).

There are no tied-house restrictions on an industrial alcohol dealer having interests in any of the other supplier-type licenses.

Premises

As with other types of licenses, the premises must be properly zoned. Normally, the licensee will sell and make deliveries from the licensed premises.

Other Requirements

The Board of Equalization may require an industrial alcohol dealer to post a surety bond. This will depend on what activities the dealer will be conducting. The Board will notify the applicant regarding the bond shortly after the application has been made with us.

WINE BLENDER - TYPE 22

Introduction

The following pertains to new wine blender's licenses issued on and after February 3, 1968. Any differences in regard to licenses issued before that date will be summarized under the heading of Grandfather Privileges. See "General Information" and "Interviewing Applicants and Processing

Applications" above, for a discussion on non-retail licenses in general.

Definitions and Functions

A wine blender is a person authorized to operate a bonded wine cellar pursuant to a Federal Basic Permit issued by the Bureau of Alcohol, Tobacco and Firearms (BATF) who does not have facilities or equipment for the conversion of fruit into wine and does not engage in the production of wine (Section 23013.5). Wine must be made from the fermentation of agricultural products to which may be added brandy which is distilled from the same agricultural product from which the wine is made. No other type of distilled spirits may be used to fortify wine. No more than 15% added flavoring or blending material may be added (Section 23007).

A wine blender is not required to engage in blending, processing, or bottling wine. He/she may elect to operate only a warehouse facility for the storage of non-tax paid ("in-bond") wine. This activity requires a Bonded Wine Cellar permit from BATF in addition to the wine blender license (Section 23770).

Normally, the application fee for a wine blender license varies according to the total wine gallonage blended; however, an applicant who intends to operate only a bonded warehouse should pay the minimum fee.

Privileges and Limitations

A wine blender may exercise all the privileges specified in Section 23356. A wine blender may exercise all the privileges of a winegrower except:

- (1) crushing and fermenting fruit, and the production of wine;
- (2) holding duplicate license privileges;
- (3) buying, selling, receiving, or delivering wine from persons other than authorized licensees;
- (4) exercising on-sale privileges on his/her premises;
- (5) selling to consumers for consumption off the premises (Section 23356.5).

A wine blender may sell for export (Sections 23356 and 23356.5). Sales within this State for use without the State must be made in accordance with Rule 54. If a licensee requests information about exporting, it is well to advise him/her to check the regulations of the State into which shipments will be made. The regulations of the individual states vary greatly; many require the shipper to hold an importer's license or an out-of-state manufacturer's license in their state before a shipment may be made into it.

Wine blenders may sell to federal areas and veterans' homes in accordance with Sections 23384 and 23356.5.

A wine blender may not engage in winetastings unless he/she qualified to do so under a "grandfathered" status as of February 2, 1968 (Section 23356.9 and Rule 53).

A wine blender may hold warehouse receipts on wine (Sections 23381 and 23356.5).

A wine blender may give samples in accordance with Section 23386 and Rule 52(a) (Section 23356.5).

While a wine blender may also hold importer's licenses, unless he/she also has a license permitting the sale of beer for resale, a beer and wine importer's license should be conditioned to permit the importation of wine only.

There are certain restrictions as to wine bottle shape and labeling of which an applicant for a wine blender's license should be informed (Sections 25235-25241).

The hours of delivery and sale at wholesale by wine blenders are similar to those for beer and wine wholesalers. Deliveries may be made from 3 a.m. until 8 p.m. Monday through Saturday. Sales may be made from the platform at his/her premises at any time (Section 25633).

It is not necessary that a wine blender keep records of sales of wine (Section 25752). See Rule 17 for sales invoice requirements.

Returns and exchanges of wine must be handled in accordance with Section 23104.1. (See P 200 for procedures.)

Tied-House

A wine blender cannot hold an interest in a retail license. He/she may hold other supplier-type licenses. However, note the exceptions in Section 25503.10 as to real property and in Section 25503.11 as to stock ownership in a corporate retail license. These exceptions apply to a wine blender in the same way they would to a winegrower (Section 23356.6).

When processing an application for a wine blender's license by a corporation, limited liability company, or limited partnership, it is necessary to complete Form ABC-140, Certification Re Chapter 15 Tied-House Restrictions. Although our investigations of stockholders, limited liability company members, or limited partners, normally are confined to those persons holding 10% or more of the stock in a corporation or equity interest in a limited liability company or limited partnership, if a tied-house situation is discovered involving a person holding less than a 10% interest, it should be reported on. If the largest stockholder, member, or limited partner holds less than 10% of stock or equity interest, a tied-house situation in which they are involved may be grounds for denial of the application.

Premises

As with other types of license applications, we should check for proper zoning with the applicable local authorities. An area zoned for business may not be the correct zoning for a wine blender. Even manufacturing districts may have restrictions against certain types of businesses. Some municipalities may also require an environmental impact report.

Importations of wine must come to rest at a wine blender's premises or the premises of a public warehouse licensee for the account of a wine blender who holds an importer's license (Section 23661). Deliveries of wine sold by a wine blender must be made only from his/her licensed premises.

Other Requirements

An applicant for a wine blender license must submit a copy of its application for applicable permits issued by BATF. The bonded wine cellar (BWC) permit number must be entered on the ABC-257-NR. The wine blender license will not be issued until the Department has evidence that the BWC permit has been granted.

The Board of Equalization requires a wine blender to post a surety bond. The Board will notify the applicant regarding the bond shortly after the application has been made with us. Failure to satisfy this requirement will delay/prevent issuance of the license.

Grandfather Privileges

A wine blender licensed before February 2, 1968, with a retail license or who had an application for a retail license pending on that day may continue to hold such retail license (Section 23356.8). The types of retail licenses permitted before that were off-sale beer and wine and off-sale general licenses, the same as for winegrowers (Sections 23356.5, 23356.6 and 23362).

A wine blender licensed on or before February 2, 1968, may conduct winetastings in accordance with Rule 53 (Section 23356.9).

SMALL BEER MANUFACTURER - TYPE 23

The privileges and limitations for this type of license are the same as for other beer manufacturers because there is no legislative distinction other than the license fees. (See Type 1 - Beer Manufacturer.)

This license formerly related only to Steam beer. "Steam" beer is made by fermentation at cellar temperature rather than near freezing as is the case with other beers. It is made using only one type of malt--malted barley. It contains no corn, rice or other cereal grains as regular beers normally do. The method of carbonation is entirely natural and involves a process known as Krausening. This process requires taking beer which has been completely fermented and adding to it beer which is still fermenting. This causes a second fermentation to occur. The Krausening process in beer corresponds closely to the "bulk process" in making some types of sparkling wines.

The most common users of this license are operators of micro-breweries and brewpubs. These designations are not to be construed as legal definitions. Their use below is only for descriptive purposes.

"Micro-brewery": A small-scale brewery operation that generally produces approximately 15,000 barrels a year. Its beer products are primarily intended for local and/or regional consumption. Typically, these operations are solely dedicated to the production of specialty beers, although some do have a restaurant or pub on their manufacturing plant.

"Brewpub": Typically, a very small brewery with a restaurant where the beer it produces is sold in draft form exclusively at its own premises. This operation often sells other supplier's bottled beer, including other hand-crafted or micro-brewed beers as well as wine to patrons for consumption on its premises. See "Special Note" below.

Special Note

A brewpub-restaurant (Type 75) license, authorized under Section 23396.3, has a limited brewing privilege and may sometimes be referred to as "brewpub." However, the Type 75 is an on-sale retail license with significant differences/limitations in license privileges from those of a true "beer manufacturer" (either Type 01 or Type 23).

Other Requirements:

The Board of Equalization requires a small beer manufacturer to post a surety bond. the Board will notify the applicant regarding the bond shortly after the application has been made with us. Failure to satisfy this requirement will delay/prevent issuance of the license.

DISTILLED SPIRITS RECTIFIER'S GENERAL - TYPE 24

Introduction

A distilled spirits rectifier's general license is similar to a rectifier's license except that a distilled spirits rectifier's general licensee may not rectify wine or sell distilled spirits to retailers. See "General Information" and "Interviewing Applicants and Processing Applications" above, for a discussion on non-retail licenses in general.

Definitions and Functions

A distilled spirits rectifier's general license authorizes the person to whom issued to cut, blend, rectify, mix, flavor, and color distilled spirits, and whether so cut, blended, mixed, flavored, or colored by him or any other person, to package, label, export, and sell the distilled spirits to distilled spirits manufacturers, distilled spirits manufacturer's agents, distilled spirits wholesalers, distilled spirits general importers, rectifiers, and distilled spirits general rectifiers (Section 23368.1).

Section 23005 defines distilled spirits as an alcoholic beverage obtained by the distillation of fermented agricultural products, and includes alcohol for beverage use, spirits of wine, whiskey, rum, brandy, and gin, including all dilutions and mixtures thereof.

Privileges and Limitations

A distilled spirits rectifier's general license may not sell to retailers. He may rectify only distilled spirits.

This type of license does not authorize sales to veterans' homes or military reservations (Section 23384).

A distilled spirits rectifier's general licensee may give samples in accordance with Sections 23386 and Rule 52.

Since a holder of this license does not sell to retailers, he is not restricted on hours or days of delivery (Section 25633).

Sales records and records of all expenditures incurred in the sale and distribution of distilled spirits must be maintained at the licensed premises (Section 25752; Rule 17).

This license does not authorize the sale of distilled spirits for use in the trades, industries and professions.

There are no storage requirements for this type of license nor are there any inventory requirements.

The holder of this license may conduct courses of instruction for licensees and their employees on the subject of distilled spirits including, but not limited to, the history, nature, values, and characteristics of distilled spirits, and the methods of presenting and serving distilled spirits. He may furnish distilled spirits and such equipment, materials, and utensils as may be required for use in connection with such instruction or courses of instruction. This instruction may be given at his/her premises or at the premises of another licensee, including an on-sale retail licensee, or elsewhere (Section 25503.5).

Tied-House

No distilled spirits rectifier's general license shall be issued to any person who holds an interest, directly or indirectly, in an on-sale or off-sale license. A holder of this license may not hold an interest, either directly or indirectly, in a distilled spirits manufacturer's license or a distilled spirits manufacturer's agent's license (Section 23771).

When processing an application for a distilled spirits rectifier's general license by a corporation, limited liability company, or limited partnership, it is necessary to complete Form ABC-140, Certification Re

January 30, 2002

Chapter 15 Tied-House Restrictions. Although our investigations of stockholders, limited liability company members, or limited partners, normally are confined to those persons holding 10% or more of the stock in a corporation or equity interest in a limited liability company or limited partnership, if a tied-house situation is discovered involving a person holding less than a 10% interest, it should be reported on. If the largest stockholder, member, or limited partner holds less than 10% of stock or equity interest, a tied-house situation in which they are involved may be grounds for denial of the application.

Premises

As with other types of license applications, we should check for proper zoning with the applicable local authorities. An area zoned for business may not be the correct zoning for this type of business. Even manufacturing districts may have restrictions against certain types of businesses.

The equipment and materials required of a holder of a distilled spirits rectifier's general license are specified by the Bureau of Alcohol, Tobacco and Firearms, U.S. Treasury Department. When investigating an application for this type of license, the investigator should coordinate the investigation with that of his/her counterpart in the Permissive Section of that Bureau. This type of license may be located on the premises of a manufacturer, manufacturer's agent, importer, rectifier, or wholesaler whether issued to the same or another person (Section 23368.1).

Other Requirements

The Board of Equalization requires a distilled spirits rectifier to post a surety bond. The Board will notify the applicant regarding the bond shortly after the application has been made with us. Failure to satisfy this requirement will delay/prevent issuance of the license.

CALIFORNIA BRANDY WHOLESALER - TYPE 25

Introduction

This license is one that is very seldom used. Currently, there are three active Type 25 licenses. It was created to enable a beer and wine wholesaler to handle brandy produced by or for a winery whose wine the wholesaler handled, without the necessity of his obtaining a distilled spirits wholesaler's license which at one time was limited in number by rule. See "General Information" and "Interviewing Applicants and Processing Applications" above, for a discussion of non-retail licenses in general.

Definitions and Functions

A California brandy wholesaler's license may be issued only to the holder of a beer and wine wholesaler's license (Type 17). It authorizes the person to whom it is issued to sell only brandy produced in California to persons holding licenses authorizing the sale of brandy, and to export such brandy.

Privileges and Limitations

This licensee may exercise all of the privileges specified in Section 23378.1.

A holder of this license may sell tax-paid brandy to non-licensees having a fixed place of business or residence upon territory within this State which is maintained by the United States Government as a military or naval reservation or national park or veterans' home, and veterans' homes maintained by the State of California (Section 23384).

A holder of this license may not give instruction on the subject of brandy.

A holder of this license may give samples in accordance with Section 23386 and Rule 52.

The holder of a California brandy wholesaler's license is subject to the provisions of Section 25633 and can only deliver between 6:00 a.m. and 8:00 p.m., Monday through Saturday.

Sales records and records of all expenditures incurred in the sale and distribution of distilled spirits must be maintained at the licensed premises (Section 25752 and Rule 17).

Tied-House

A holder of this license may not hold any interest, directly or indirectly, in any on-sale or off-sale license (Sections 25500 and 25502). He/she may not have an interest in a distilled spirits manufacturer's license or a distilled spirits manufacturer's agent's license (Section 23772).

When processing an application for a California brandy wholesaler's license by a corporation, limited liability company, or limited partnership, it is necessary to complete Form ABC-140, Certification Re Chapter 15 Tied-House Restrictions. Although our investigations of stockholders, limited liability company members, or limited partners, normally are confined to those persons holding 10% or more of the stock in a corporation or equity interest in a limited liability company or limited partnership, if a tied-house situation is discovered involving a person holding less than a 10% interest, it should be reported on. If the largest stockholder, member, or limited partner holds less than 10% of stock or equity interest, a tied-house situation in which they are involved may be grounds for denial of the application.

Premises

The zoning for the premises for this type of license will normally be the same as for the beer and wine wholesaler's license which this licensee also must hold.

This licensee must maintain warehouse space and comply with inventory requirements in accordance with

the provisions of Section 23378.1.

Other Requirements

The Board of Equalization requires a California brandy wholesaler to post a surety bond. The Board will notify the applicant regarding the bond shortly after the application has been made with us. Failure to satisfy this requirement will delay/prevent issuance of the license.

CALIFORNIA WINEGROWER'S AGENT - TYPE 27

Introduction

This is a license first authorized by 1973 legislation. There have been relatively few of these licenses issued. Currently, there are five active Type 27 licenses. See "General Information" and "Interviewing Applicants and Processing Applications" above, for a discussion of non-retail licenses in general.

Definitions and Functions

A California winegrower's agent acts as the sole representative for a California winegrower or brandy manufacturer (Section 23373.2). This license authorizes the holder to possess wine and brandy produced in this State in public and private warehouses; to sell only to wholesalers for his/her own account or to solicit and make sales of wine or brandy made in California only to wholesalers for his/her principal, and to invoice and collect payments for orders solicited by him/her (Section 23373). This license does not authorize the holder to represent an out-of-state winegrower or brandy manufacturer.

Privileges and Limitations

A California winegrower's agent may hold winetastings on behalf of his/her principal (Sections 23373 and 23356.1; Rule 53). He/she may set up displays to the same extent as his/her principal (Sections 23373 and 25503.1); may assist in stocking and shelving to the same extent as his/her principal (Sections 23373 and 25502.2); may maintain hospitality rooms at industry conventions to the same extent as his/her principal (Sections 23373 and 25503.3); may conduct courses of instruction for licensees and their employees in the same manner as his/her principal (Sections 23373 and 25503.5); and may donate or sell wine to non-profit charitable associations to the same extent as his/her principal (Sections 23373 and 25503.9).

A California winegrower's agent is authorized to furnish samples (Rule 52), produce and distribute wine lists (Rule 106), produce and furnish advertising material, retailer advertising specialties, and consumer advertising specialties (Rule 106) with respect to wine or brandy he/she distributes as the agent of his/her principal so authorized (Section 23373.4).

If California winegrower's agent violates a statute, the Department may take disciplinary action against that license or his/her principal's or both (Section 23373.5).

While a California winegrower or brandy manufacturer may be represented by only one California winegrower's agent, there is no restriction on the number of California winegrowers or brandy manufacturers that an agent may represent.

Tied-House

A California winegrower's agent may not hold any retail license nor be owned by a retailer. He/she may have no interest in any wholesale license nor may a wholesaler hold an interest in the business conducted under a California winegrower's agent's license except that a wholesaler who had been the primary distributor for a winegrower for 20 years before January 1, 1974, may continue to hold both a wholesaler's and a California winegrower's agent's license (Section 23373.1).

When processing an application for a California winegrower's agent's license by a corporation, limited liability company, or limited partnership, it is necessary to complete Form ABC-140, Certification Re Chapter 15 Tied-House Restrictions. Although our investigations of stockholders, limited liability company members, or limited partners, normally are confined to those persons holding 10% or more of the stock in a corporation or equity interest in a limited liability company or limited partnership, if a tied-house situation is discovered involving a person holding less than a 10% interest, it should be reported on. If the largest stockholder, member, or limited partner holds less than 10% of stock or equity interest, a tied-house situation in which they are involved may be grounds for denial of the application.

Premises

As with other types of license applications, we should check for proper zoning with the applicable local authorities. An area zoned for business may not be the correct zoning for this type of business. Even manufacturing districts may have restrictions against certain types of businesses.

Other Requirements

A California winegrower's agent need not post a surety bond with the Board of Equalization.

WINE GRAPE GROWER'S STORAGE - TYPE 29

Introduction

This license was authorized by legislation in 1982 to enable wine grape growers to more effectively deal with unpredictable market conditions that periodically caused an oversupply of grapes. Subsequent legislation in 1985 expanded the number of licensees to whom a wine grape grower could sell wine.

Definitions and Functions

A wine grape grower's storage license authorizes the holder to store bulk wine, made from grapes produced by the holder, on the premises of a licensed winegrower and to sell that wine, within this State to winegrowers, distilled spirits manufacturers, brandy manufacturers, wine blenders, and vinegar producers. (Section 23358.3).

Privileges and Limitations

This license confers very limited privileges. Essentially, this licensee may sell only wine produced from grapes grown by him/her to those persons specifically named in Section 23358.3.

A wine grape grower's storage license does not authorize sales of wine produced from grapes not grown by the licensee.

This licensee may not sell wine to other supplier-type licensees, except as provided in Section 23358.3, or to retail licensees or to unlicensed persons.

Tied-House

This licensee's activities are directly related to specified supplier-type licensees. Therefore, a tied-house situation would exist if a wine grape grower's storage licensee also held a retail license since suppliers are prohibited from giving money or other things of value (i.e., payments for wine sold by the wine grape grower) to retail licensees (Sections 25500 and 25502).

Other Requirements

A wine grape grower's storage licensee is not required to post a surety bond with the Board of Equalization.

List of Illustrations

No.	Form No.	Title
1	ABC-257-NR	Licensed Premises Diagram/Planned Operation (Non-Retail)
2	ABC-239	Additional License/Permit Application
3	ABC-412	Label Approval Application
4	ABC-203	Acknowledgment of ABC Laws, Rules and/or Regulations